

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 564
92ND GENERAL ASSEMBLY

Reported from the Committee on Professional Registration and Licensing, April 3, 2003, with recommendation that the House Committee Substitute for House Bill No. 564 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

1879L.02C

AN ACT

To repeal sections 209.323, 324.077, 324.409, 327.401, 327.411, 329.050, 329.070, 332.071, 332.171, 332.181, 332.261, 332.321, 332.327, 332.341, 337.030, 339.010, 339.020, 339.030, 339.040, 339.060, 339.100, 339.105, 339.120, 339.130, 339.150, 339.160, 339.170, 339.180, 339.600, 339.603, 339.605, 339.606, 339.607, 339.608, 339.610, 339.612, 339.614, 339.617, 339.710, 339.760, 339.780, 339.800, 343.010, 343.030, 343.040, 343.050, 343.060, 343.070, 343.080, 343.090, 343.100, 343.250, 436.200, 436.205, 436.209, 436.212, and 621.045, RSMo, and to enact in lieu thereof ninety new sections relating to professional registration, with penalty provisions and an effective date for certain sections.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 209.323, 324.077, 324.409, 327.401, 327.411, 329.050, 329.070, 332.071, 332.171, 332.181, 332.261, 332.321, 332.327, 332.341, 337.030, 339.010, 339.020, 339.030, 339.040, 339.060, 339.100, 339.105, 339.120, 339.130, 339.150, 339.160, 339.170, 339.180, 339.600, 339.603, 339.605, 339.606, 339.607, 339.608, 339.610, 339.612, 339.614, 339.617, 339.710, 339.760, 339.780, 339.800, 343.010, 343.030, 343.040, 343.050, 343.060, 343.070, 343.080, 343.090, 343.100, 343.250, 436.200, 436.205, 436.209, 436.212, and 621.045, RSMo, are repealed and ninety new sections enacted in lieu thereof, to be known as sections 209.323, 324.077, 324.409, 324.1200, 324.1203, 324.1206, 324.1209, 324.1212, 324.1215, 324.1218, 324.1221, 324.1224, 324.1227, 324.1230, 324.1233, 324.1236, 324.1239, 324.1242, 324.1245, 324.1248, 324.1251, 324.1254, 324.1257, 327.172, 327.401, 327.411, 329.050,

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

11 329.070, 332.069, 332.071, 332.171, 332.181, 332.261, 332.321, 332.327, 334.400, 334.402,
12 334.404, 334.406, 334.408, 334.410, 334.412, 334.414, 334.416, 334.418, 334.420, 334.422,
13 334.424, 334.426, 334.428, 334.430, 337.030, 339.010, 339.020, 339.030, 339.040, 339.060,
14 339.100, 339.105, 339.120, 339.130, 339.150, 339.160, 339.170, 339.180, 339.710, 339.760,
15 339.780, 339.800, 343.350, 343.353, 343.356, 343.359, 343.362, 343.365, 343.368, 343.371,
16 343.374, 343.377, 343.380, 343.383, 343.386, 343.389, 343.392, 343.395, 343.398, 343.401,
17 343.404, 343.410, and 621.045, to read as follows:

209.323. 1. Applications for licensure as an interpreter shall be submitted to the division
2 on forms prescribed by the division and furnished to the applicant. The application shall contain
3 the applicant's statements showing the applicant's education, certification by either the National
4 Registry of Interpreters for the Deaf, National Association of the Deaf or Missouri Interpreter
5 Certification System and such other information as the division may require. Each application
6 shall contain a statement that it is made under oath or affirmation and that the information
7 contained in the application is true and correct to the best knowledge and belief of the applicant,
8 subject to the penalties, as provided in sections 209.319 to 209.339, for the making of a false
9 affidavit or declaration. Each application shall be accompanied by the required application fee.
10 The application fee must be submitted in a manner as required by the committee and shall not
11 be refundable. The applicant must be eighteen years of age or older.

2. Each license issued pursuant to the provisions of sections 209.319 to 209.339 shall
13 expire on the renewal date. The division shall mail a renewal notice to the last known address
14 of each licensee prior to the registration renewal date. The license will expire **and renewal may**
15 **be denied** upon failure **of the licensee** to provide the division with the information required for
16 [registration] **renewal, including but not limited to satisfactory evidence of current**
17 **certification issued by the Missouri commission for the deaf, or failure** to pay the required
18 [registration] **renewal** fee within sixty days of the registration renewal date. The license may be
19 reinstated within two years after the registration date, if the applicant applies for reinstatement
20 [and], pays the required registration fee plus a delinquency fee as established by the committee,
21 **and provides evidence of current certification issued by the Missouri commission for the**
22 **deaf.**

3. Except as provided in section 209.321, the committee with assistance from the
24 division shall issue or renew a license to each person who files an application and fee as required
25 by the provisions of sections 209.319 to 209.339 and who furnishes satisfactory evidence to the
26 committee that he **or she** has complied with the provisions of subsection 1 or 2 of this section.

4. The committee may issue a new license to replace any license which is lost, destroyed
28 or mutilated upon payment of a fee as provided by the committee.

324.077. The division, in collaboration with the board, may issue a limited permit, upon

2 the payment of applicable fees and completion of the required application, to a person who
3 [sufficiently] provides **satisfactory** proof of eligibility to [set] **sit** for the [first available]
4 examination [upon completion of all other necessary requirements for certification by the
5 certifying entity. The limited permit shall allow the person to practice occupational therapy
6 under the supervision of a person currently licensed pursuant to sections 324.050 to 324.089.
7 A limited permit shall only be effective up to but not to exceed the time the results of the second
8 available examination are received by the board unless the person successfully passes the
9 examination in which instance the limited permit shall remain valid for an additional sixty days]
10 **administered by the certifying entity in accordance with the rules promulgated by the**
11 **board.**

324.409. 1. To be a registered commercial interior designer, a person:

2 (1) Shall take and pass or have passed the examination administered by the National
3 Council for Interior Design Qualification or an equivalent examination approved by the council.
4 In addition to proof of passage of the examination, the application shall provide substantial
5 evidence to the council that the applicant:

6 (a) Is a graduate of a five-year or four-year interior design program from an accredited
7 institution and has completed at least two years of diversified and appropriate interior design
8 experience; or

9 (b) Has completed at least three years of an interior design curriculum from an accredited
10 institution and has completed at least three years of diversified and appropriate interior design
11 experience; or

12 (c) Is a graduate of a two-year interior design program from an accredited institution and
13 has completed at least four years of diversified and appropriate interior design experience; **or**

14 (2) [Within twenty-four months of August 28, 1998, a person may qualify for registration
15 by providing substantial evidence to the council that the applicant:

16 (a) Has passed the full examination administered by the National Council for Interior
17 Design Qualification or an equivalent state examination approved by the council and has a
18 minimum of six years of interior design experience acceptable to the council;

19 (b) Has passed or intends to take and pass within the next twelve months the building
20 and barrier-free portion of the examination administered by the National Council for Interior
21 Design Qualification or an equivalent state codes examination approved by the council and has
22 provided satisfactory evidence of having used or been identified by the title, interior designer,
23 and has diversified and appropriate experience totaling a minimum of ten years; or

24 (c) Has taken and passed the building and barrier-free portion of the examination
25 administered by the National Council for Interior Design Qualification or an equivalent state
26 codes examination approved by the council, and has passed the American Institute of Interior

27 Designers accreditation examination; or

28 (3)] May qualify who is currently registered pursuant to sections 327.091 to 327.171,
29 RSMo, and section 327.401, RSMo, pertaining to the practice of architecture and registered with
30 the council. Such applicant shall give authorization to the council in order to verify current
31 registration with sections 327.091 to 327.171, RSMo, and section 327.401, RSMo, pertaining
32 to the practice of architecture.

33 2. Verification of experience required pursuant to this section shall be based on a
34 minimum of five client references, business or employment verification and five industry
35 references, submitted to the council.

36 3. The council shall verify if an applicant has complied with the provisions of this
37 section and has paid the required fees, then the council shall recommend such applicant be
38 registered as a registered commercial interior designer by the council.

**324.1200. Sections 324.1200 to 324.1257 may be cited as the "Uniform Athlete
2 Agents Act".**

324.1203. As used in sections 324.1200 to 324.1257, the following terms shall mean:

2 **(1) "Agency contract", an agreement in which a student-athlete authorizes a person**
3 **to negotiate or solicit on behalf of the student-athlete a professional-sports-services**
4 **contract or an endorsement contract;**

5 **(2) "Athlete agent", an individual who enters into an agency contract with a**
6 **student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into**
7 **an agency contract. The term does not include a spouse, parent, sibling, grandparent, or**
8 **guardian of the student-athlete or an individual acting solely on behalf of a professional**
9 **sports team or professional sports organization. The term includes an individual who**
10 **represents to the public that the individual is an athlete agent;**

11 **(3) "Athletic director", an individual responsible for administering the overall**
12 **athletic program of an educational institution or, if an educational institution has**
13 **separately administered athletic programs for male students and female students, the**
14 **athletic program for males or the athletic program for females, as appropriate;**

15 **(4) "Contact", a communication, direct or indirect, between an athlete agent and**
16 **a student-athlete, to recruit or solicit the student-athlete to enter into an agency contract;**

17 **(5) "Director", the director of the division of professional registration;**

18 **(6) "Division", the division of professional registration;**

19 **(7) "Endorsement contract", an agreement under which a student-athlete is**
20 **employed or receives consideration to use on behalf of the other party any value that the**
21 **student-athlete may have because of publicity, reputation, following, or fame obtained**
22 **because of athletic ability or performance;**

23 (8) "Intercollegiate sport", a sport played at the collegiate level for which eligibility
24 requirements for participation by a student-athlete are established by a national
25 association for the promotion or regulation of collegiate athletics;

26 (9) "Person", an individual, corporation, business trust, estate, trust, partnership,
27 limited liability company, association, joint venture, government; governmental
28 subdivision, agency, or instrumentality; public corporation, or any other legal or
29 commercial entity;

30 (10) "Professional-sports-services contract", an agreement under which an
31 individual is employed or agrees to render services as a player on a professional sports
32 team, with a professional sports organization, or as a professional athlete;

33 (11) "Record", information that is inscribed on a tangible medium or that is stored
34 in an electronic or other medium and is retrievable in perceivable form;

35 (12) "Registration", registration as an athlete agent pursuant to sections 324.1200
36 to 324.1257;

37 (13) "State", a state of the United States, the District of Columbia, Puerto Rico, the
38 United States Virgin Islands, or any territory or insular possession subject to the
39 jurisdiction of the United States;

40 (14) "Student-athlete", an individual who engages in, is eligible to engage in, or
41 may be eligible in the future to engage in, any intercollegiate sport. If an individual is
42 permanently ineligible to participate in a particular intercollegiate sport, the individual is
43 not a student-athlete for purposes of that sport.

 324.1206. 1. The director of the division of professional registration shall
2 administer the provisions of sections 324.1200 to 324.1257.

3 2. By engaging in the business of an athlete agent in this state, a nonresident
4 individual appoints the director as the individual's agent to accept service of process in any
5 civil action related to the individual's business as an athlete agent in this state.

6 3. The director may subpoena witnesses, issue subpoenas duces tecum and require
7 production of documents and records. Subpoenas, including subpoenas duces tecum, shall
8 be served by a person authorized to serve subpoenas of courts of record. In lieu of
9 requiring attendance of a person to produce original documents in response to a subpoena
10 duces tecum, the board may require sworn copies of such documents to be filed with it or
11 delivered to its designated representative.

12 4. The director may enforce its subpoenas, including subpoena duces tecum, by
13 applying to a circuit court of Cole County, the county of the investigation, hearing or
14 proceeding, or any county where the person resides or may be found, for an order upon
15 any person who shall fail to obey a subpoena to show cause why such subpoena should not

16 be enforced, which such order and a copy of the application therefore shall be served upon
17 the person in the same manner as a summons in a civil action, and if the circuit court shall,
18 after a hearing, determine that the subpoena should be sustained and enforced, such court
19 shall proceed to enforce the subpoena in the same manner as though the subpoena had
20 been issued in a civil case in the circuit court.

324.1209. 1. Except as otherwise provided in subsection 2 of this section, an
2 individual may not act as an athlete agent in this state before being issued a certificate of
3 registration pursuant to section 324.1215 or 324.1221.

4 2. An individual with a temporary license pursuant to section 324.1221, may act as
5 an athlete agent before being issued a certificate of registration for all purposes except
6 signing an agency contract if:

7 (1) A student-athlete or another acting on behalf of the student-athlete initiates
8 communication with the individual; and

9 (2) Within seven days after an initial act as an athlete agent, the individual submits
10 an application to register as an athlete agent in this state.

11 3. An agency contract resulting from conduct in violation of this section is void.
12 The athlete agent shall return any consideration received under the contract.

324.1212. 1. An applicant for registration shall submit an application for
2 registration to the director in a form prescribed by the director. The application must be
3 in the name of an individual and signed by the applicant under penalty of perjury and
4 must state or contain:

5 (1) The name of the applicant and the address of the applicant's principal place of
6 business;

7 (2) The name of the applicant's business or employer, if applicable;

8 (3) Any business or occupation engaged in by the applicant for the five years next
9 preceding the date of submission of the application;

10 (4) A description of the applicant's:

11 (a) Formal training as an athlete agent;

12 (b) Practical experience as an athlete agent; and

13 (c) Educational background relating to the applicant's activities as an athlete agent;

14 (5) The names and addresses of three individuals not related to the applicant who
15 are willing to serve as references;

16 (6) The name, sport, and last known team for each individual for whom the
17 applicant provided services as an athlete agent during the five years next preceding the
18 date of submission of the application;

19 (7) The names and addresses of all persons who are:

20 (a) With respect to the athlete agent's business if it is not a corporation, the
21 partners, officers, associates, or profit-sharers; and

22 (b) With respect to a corporation employing the athlete agent, the officers,
23 directors, and any shareholder of the corporation with a five percent or greater interest;

24 (8) Whether the applicant or any other person named pursuant to subdivision (7)
25 of this subsection has been convicted of a crime that, if committed in this state, would be
26 a felony or other crime involving moral turpitude, and identify the crime;

27 (9) Whether there has been any administrative or judicial determination that the
28 applicant or any other person named pursuant to subdivision (7) of this subsection has
29 made a false, misleading, deceptive, or fraudulent representation;

30 (10) Any instance in which the prior conduct of the applicant or any other person
31 named pursuant to subdivision (7) of this subsection resulted in the imposition of a
32 sanction, suspension, or declaration of ineligibility to participate in an interscholastic or
33 intercollegiate athletic event on a student-athlete or educational institution;

34 (11) Any sanction, suspension, or disciplinary action taken against the applicant
35 or any other person named pursuant to subdivision (7) of this subsection arising out of
36 occupational or professional conduct; and

37 (12) Whether there has been any denial of an application for, suspension or
38 revocation of, or refusal to renew, the registration or licensure of the applicant or any other
39 person named pursuant to subdivision (7) of this subsection as an athlete agent in any state.

324.1215. 1. Except as otherwise provided in subsection 2 of this section, the
2 director shall issue a certificate of registration to an individual who complies with
3 subsection 1 of section 324.1212.

4 2. The director may refuse to issue a certificate of registration if the director
5 determines that the applicant has engaged in conduct that has a significant adverse effect
6 on the applicant's fitness to serve as an athlete agent. In making the determination, the
7 director may consider whether the applicant has:

8 (1) Been convicted of a crime that, if committed in this state, would be a felony or
9 other crime involving moral turpitude;

10 (2) Made a materially false, misleading, deceptive, or fraudulent representation as
11 an athlete agent or in the application;

12 (3) Engaged in conduct that would disqualify the applicant from serving in a
13 fiduciary capacity;

14 (4) Engaged in conduct prohibited by section 324.1239;

15 (5) Had a registration or licensure as an athlete agent suspended, revoked, or
16 denied or been refused renewal of registration or licensure in any state;

17 **(6) Engaged in conduct or failed to engage in conduct the consequence of which was**
18 **that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic**
19 **or intercollegiate athletic event was imposed on a student-athlete or educational institution;**
20 **or**

21 **(7) Engaged in conduct that significantly adversely reflects on the applicant's**
22 **credibility, honesty, or integrity.**

23 **4. In making a determination pursuant to subsection 3 of this section, the director**
24 **shall consider:**

25 **(1) How recently the conduct occurred;**

26 **(2) The nature of the conduct and the context in which it occurred; and**

27 **(3) Any other relevant conduct of the applicant.**

28 **5. An athlete agent may apply to renew a registration by submitting an application**
29 **for renewal in a form prescribed by the director. The application for renewal must be**
30 **signed by the applicant under penalty of perjury under section 575.040, RSMo, and must**
31 **contain current information on all matters required in an original registration.**

32 **6. A certificate of registration or a renewal of a registration is valid for two years.**

324.1218. 1. The director may revoke, suspend, or refuse to renew any certificate
2 **of registration required pursuant to this chapter for one or any combination of causes**
3 **stated in subsection 2 of this section. The director shall notify the applicant in writing of**
4 **the reasons for the refusal and shall advise the applicant of the applicant's right to file a**
5 **complaint with the administrative hearing commission as provided by chapter 621, RSMo.**

6 **2. The director may cause a complaint to be filed with the administrative hearing**
7 **commission as provided by chapter 621, RSMo, against any holder of any certificate of**
8 **registration required by this chapter or any person who has failed to renew or has**
9 **surrendered the person's certificate of registration for any one or any combination of the**
10 **following causes:**

11 **(1) The person has been finally adjudicated and found guilty, or entered a plea of**
12 **guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the**
13 **United States, for any offense reasonably related to the qualifications, functions or duties**
14 **pursuant to this chapter, for any offense an essential element of which is fraud, dishonesty,**
15 **or an act of violence, or for any offense involving moral turpitude, whether or not sentence**
16 **is imposed;**

17 **(2) Use of fraud, deception, misrepresentation, or bribery in securing any certificate**
18 **of registration pursuant to this chapter;**

19 **(3) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct, or**
20 **unprofessional conduct in the performance of the functions regulated by this chapter,**

21 including, but not limited to, the following:

22 (a) Obtaining or attempting to obtain any fee, charge tuition, or other
23 compensation by fraud, deception, or misrepresentation;

24 (b) Attempting, directly or indirectly, by way of intimidation, coercion, or
25 deception, to obtain consultation;

26 (c) Failure to comply with any subpoena or subpoena duces tecum from the
27 director;

28 (d) Failing to inform the director of the athlete agent's current residence and
29 business address;

30 (4) Violation of, or attempting to violate, directly or indirectly, or assisting or
31 enabling any person to violate any provision of this chapter, or of any lawful rule or
32 regulation adopted pursuant to this chapter;

33 (5) Impersonation of any person holding a certificate of registration or allowing any
34 person to use his or her certificate of registration;

35 (6) Violation of the drug laws or rules and regulations of this state, any other state
36 or the federal government;

37 (7) Knowingly making, or causing to be made, or aiding, or abetting in the making
38 of, a false statement in any birth or other certificate or document executed in connection
39 with the transaction;

40 (8) Soliciting patronage in person or by agents or representatives, or by any other
41 means or manner, under the person's own name or under the name of another person or
42 concern, actual or pretended, in such a manner as to confuse, deceive, or mislead the
43 public;

44 (9) A pattern of personal use or consumption of any controlled substance unless it
45 is prescribed, dispensed or administered by a physician who is authorized by law to do so;

46 3. After the filing of such complaint before the administrative hearing commission,
47 the proceedings shall be conducted in accordance with the provisions of chapter 621,
48 RSMo. Upon a finding by the administrative hearing commission that the grounds,
49 provided in subsection 2 of this section, for disciplinary action are met, the director may,
50 singly or in combination, warn, censure or place the person named in the complaint on
51 probation on such terms and conditions as the director deems appropriate for a period not
52 to exceed six months, or may suspend the person's certificate of registration period not to
53 exceed one year, or restrict or limit the person's certificate of registration for an indefinite
54 period of time, or revoke the person's certificate of registration.

55 4. In any order of revocation, the director may provide that the person may not
56 apply for reinstatement of the person's certificate of registration for a period of time

57 ranging from two to seven years following the date of the order of revocation. All stay
58 orders shall toll this time period.

324.1221. The director may issue a temporary certificate of registration while an
2 application for registration or renewal is pending.

324.1224. 1. An application for registration or renewal of registration shall be
2 accompanied by a fee which shall be determined by the director and established by rule.
3 All fees payable pursuant to the provisions of this section shall be collected by the division
4 of professional registration and transmitted to the department of revenue for deposit in the
5 state treasury to the credit of the fund to be known as the "Athlete Agent Fund" which is
6 hereby established. The provisions of section 33.080, RSMo, to the contrary
7 notwithstanding, money in the athlete agent fund shall not be transferred and placed to the
8 credit of general revenue until the amount in the athlete agent fund at the end of the
9 biennium exceeds two times the amount of the appropriations from such fund for the
10 preceding fiscal year or, if the director allows renewal of registration less frequently than
11 yearly, then three times the appropriations from such fund for the preceding fiscal year;
12 provided that no amount from such fund may be transferred to the credit of general
13 revenue earlier than two years following the effective date of this section. The amount, if
14 any, which may be transferred to the credit of general revenue after two years following
15 the effective date of this section is that amount in the athlete agent fund which exceeds the
16 appropriate multiple of the appropriations from such fund for the preceding fiscal year.

17 2. The director may promulgate rules to authorize and file "athlete agent"
18 documents as that term is defined in section 536.010, RSMo, that is created under the
19 authority delegated in this section shall become effective only if it complies with and is
20 subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,
21 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers
22 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
23 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,
24 then the grant of rulemaking authority and any rule proposed or adopted after August 28,
25 2003, shall be invalid and void.

324.1227. 1. An agency contract must be in a record, signed by the parties.

2 2. An agency contract must state or contain:

3 (1) The amount and method of calculating the consideration to be paid by the
4 student-athlete for services to be provided by the athlete agent under the contract and any
5 other consideration the athlete agent has received or will receive from any other source for
6 entering into the contract or for providing the services;

7 (2) The name of any person not listed in the application for registration or renewal

8 who will be compensated because the student-athlete signed the agency contract;

9 (3) A description of any expenses that the student-athlete agrees to reimburse;

10 (4) A description of the services to be provided to the student-athlete;

11 (5) The duration of the contract; and

12 (6) The date of execution.

13 3. An agency contract must contain, in close proximity to the signature of the
14 student-athlete, a conspicuous notice in boldface type in capital letters stating:

15 "WARNING TO STUDENT-ATHLETE

16 IF YOU SIGN THIS CONTRACT:

17 (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A
18 STUDENT-ATHLETE IN YOUR SPORT;

19 (2) BOTH YOU AND YOUR ATHLETE AGENT ARE
20 REQUIRED TO TELL YOUR ATHLETIC DIRECTOR, IF YOU HAVE
21 AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING
22 INTO AN AGENCY CONTRACT; AND

23 (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS
24 AFTER SIGNING IT. CANCELLATION OF THE CONTRACT MAY
25 NOT REINSTATE YOUR ELIGIBILITY."

26 4. An agency contract that does not conform to this section is voidable by the
27 student-athlete.

28 5. The athlete agent shall give a copy of the signed agency contract to the student-
29 athlete at the time of signing.

324.1230. 1. Within seventy-two hours after entering into an agency contract or
2 before the next scheduled athletic event in which the student-athlete may participate,
3 whichever occurs first, the athlete agent shall give notice in writing of the existence of the
4 contract to the athletic director of the educational institution at which the student-athlete
5 is enrolled or the athlete agent has reasonable grounds to believe the student-athlete
6 intends to enroll.

7 2. Within seventy-two hours after entering into an agency contract or before the
8 next athletic event in which the student-athlete may participate, whichever occurs first, the
9 student-athlete shall in writing inform the athletic director of the educational institution
10 at which the student-athlete is enrolled that he or she has entered into an agency contract.

324.1233. 1. A student-athlete may cancel an agency contract by giving notice in
2 writing to the athlete agent of the cancellation within fourteen days after the contract is
3 signed.

4 2. A student-athlete may not waive the right to cancel an agency contract.

5 **3. If a student-athlete cancels an agency contract within fourteen days of signing**
6 **the contract, the student-athlete is not required to pay any consideration under the**
7 **contract or to return any consideration received from the agent to induce the student-**
8 **athlete to enter into the contract.**

324.1236. 1. An athlete agent shall retain the following records for a period of five
2 **years:**

3 **(1) The name and address of each individual represented by the athlete agent;**

4 **(2) Any agency contract entered into by the athlete agent; and**

5 **(3) Any direct costs incurred by the athlete agent in the recruitment or solicitation**
6 **of a student-athlete.**

7 **2. Records required by subsection 1 of this section to be retained are open to**
8 **inspection by the director during normal business hours.**

324.1239. 1. An athlete agent may not do any of the following with the intent to
2 **induce a student-athlete to enter into an agency contract:**

3 **(1) Give any materially false or misleading information or make a materially false**
4 **promise or representation;**

5 **(2) Furnish anything of value to a student-athlete before the student-athlete enters**
6 **into the agency contract; or**

7 **(3) Furnish anything of value to any individual other than the student-athlete or**
8 **another registered athlete agent.**

9 **2. An athlete agent may not intentionally:**

10 **(1) Initiate contact with a student-athlete unless registered pursuant to sections**
11 **324.1200 to 324.1257;**

12 **(2) Refuse or willfully fail to retain or permit inspection of the records required by**
13 **section 436.251;**

14 **(3) Violate section 324.1209 by failing to register;**

15 **(4) Provide materially false or misleading information in an application for**
16 **registration or renewal of registration;**

17 **(5) Predate or postdate an agency contract; or**

18 **(6) Fail to notify a student-athlete prior to the student athlete's signing an agency**
19 **contract for a particular sport that the signing by the student-athlete may make the**
20 **student-athlete ineligible to participate as a student-athlete in that sport.**

324.1242. The commission of any act prohibited by section 324.1239 by an athlete
2 **agent is a class B misdemeanor.**

324.1245. 1. An educational institution has a right of action against an athlete
2 **agent or a former student-athlete for damages caused by a violation of sections 324.1200**

3 to 324.1257. In an action under this section, the court may award to the prevailing party
4 costs and reasonable attorney's fees.

5 2. Damages of an educational institution under subsection 1 of this section include
6 losses and expenses incurred because, as a result of the activities of an athlete agent or
7 former student-athlete, the educational institution was injured by a violation of sections
8 324.1200 to 324.1257 or was penalized, disqualified, or suspended from participation in
9 athletics by a national association for the promotion and regulation of athletics, by an
10 athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate
11 sanctions.

12 3. A right of action under this section does not accrue until the educational
13 institution discovers or by the exercise of reasonable diligence would have discovered the
14 violation by the athlete agent or former student-athlete.

15 4. Any liability of the athlete agent or the former student-athlete under this section
16 is several and not joint.

17 5. Sections 324.1200 to 324.1257 do not restrict rights, remedies, or defenses of any
18 person under law or equity.

 324.1248. Any person who violates any provisions of sections 324.1200 to 324.1257
2 is guilty of a misdemeanor and, upon conviction thereof, shall be punished as for a class
3 A misdemeanor.

 324.1251. In applying and construing sections 324.1200 to 324.1257, consideration
2 must be given to the need to promote uniformity of the law with respect to the subject
3 matter of sections 324.1200 to 324.1257 among states that enact it.

 324.1254. If any provision of sections 324.1200 to 324.1257 or its application to any
2 person or circumstance is held invalid, the invalidity does not affect other provisions or
3 applications of sections 324.1200 to 324.1257 which can be given effect without the invalid
4 provision or application, and to this end the provisions of sections 324.1200 to 324.1257 are
5 severable.

 324.1257. Any moneys collected by the director pursuant to section 324.1248 shall
2 immediately be transferred to the department of revenue for deposit in the state treasury
3 to the credit of general revenue.

 327.172. 1. An architect licensed in this state may apply to the board for inactive
2 license status on a form furnished by the board. Upon receipt of the completed inactive
3 status application form and the board's determination that the licensee meets the
4 requirements established by rule, the board shall declare the licensee inactive and shall
5 place the licensee on an inactive status list. A person whose license is inactive shall not
6 offer or practice architecture within this state, but may continue to use the title architect.

7 **2. If a licensee is granted inactive status, the licensee may return to active status by**
8 **notifying the board in advance of such intention, by paying appropriate fees as determined**
9 **by the board, and by meeting all established requirements of the board including the**
10 **demonstration of current knowledge, competency, and skill in the practice of architecture**
11 **as a condition of reinstatement.**

12 **3. In the event an inactive licensee does not maintain a current license in any state**
13 **for a five-year period immediately prior to requesting reinstatement, such person may be**
14 **required to take an examination as the board deems necessary to determine such person's**
15 **qualifications. Such examination shall cover areas designed to demonstrate the proficiency**
16 **in current methods of architecture.**

327.401. 1. The right to practice as an architect [or to practice as a], professional
2 engineer [or to practice as a], professional land surveyor, **or landscape architect** shall be
3 deemed a personal right, based upon the qualifications of the individual, evidenced by such
4 individual's professional license and shall not be transferable; but any architect [or], any
5 professional engineer [or], any professional land surveyor, **or any landscape architect** may
6 practice his or her profession through the medium of, or as a member or as an employee of, a
7 partnership or corporation if the plans, specifications, estimates, plats, reports, surveys or other
8 like documents or instruments of the partnership or corporation are signed and stamped with the
9 personal seal of the architect, professional engineer [or], professional land surveyor, **or**
10 **landscape architect** by whom or under whose immediate personal supervision the same were
11 prepared and provided that the architect [or], professional engineer [or], professional land
12 surveyor, **or landscape architect** who affixes his or her signature and personal seal to any such
13 plans, specifications, estimates, plats, reports or other documents or instruments shall be
14 personally and professionally responsible therefor.

15 2. Any domestic corporation formed under the corporation law of this state, or any
16 foreign corporation, now or hereafter organized and having as one of its purposes the practicing
17 of architecture [or], professional engineering [or], professional land surveying, **or landscape**
18 **architecture** and any existing corporation which amends its charter to propose to practice
19 architecture [or], professional engineering [or], professional land surveying, **or landscape**
20 **architecture** shall obtain a certificate of authority for each profession named in the articles of
21 incorporation or articles of organization from the board which shall be renewed in accordance
22 with the provisions of section 327.171 or 327.261 or 327.351, as the case may be, and from and
23 after the date of such certificate of authority and while the authority or a renewal thereof is in
24 effect, may offer and render architectural [or], professional engineering [or], professional land
25 surveying, **or landscape architectural** services in this state if:

26 (1) At all times during the authorization or any renewal thereof the directors of the

27 corporation shall have assigned responsibility for the proper conduct of all its architectural [or],
28 professional engineering [or], professional land surveying, **or any landscape architectural**
29 activities in this state to an architect licensed and authorized to practice architecture in this state
30 or to a professional engineer licensed and authorized to practice engineering in this state or to
31 a professional land surveyor licensed and authorized to practice professional land surveying in
32 this state, **or to a landscape architect licensed and authorized to practice landscape**
33 **architecture in this state**, as the case may be; and

34 (2) The person or persons who is or are personally in charge and supervises or supervise
35 the architectural [or], professional engineering [or], professional land surveying, **or landscape**
36 **architectural** activities, as the case may be, of any such corporation in this state shall be licensed
37 and authorized to practice architecture [or], professional engineering [or], professional land
38 surveying, **or landscape architecture**, as the case may be, as provided in this chapter; and

39 (3) The corporation pays such fees for the certificate of authority, renewals or
40 reinstatements thereof as are required.

327.411. 1. Each architect and each professional engineer and each professional land
2 surveyor **and each landscape architect** shall have a personal seal in a form prescribed by the
3 board, and he or she shall affix the seal to all final documents including, but not limited to, plans,
4 specifications, estimates, plats, reports, surveys, proposals and other documents or instruments
5 prepared by the licensee, or under such licensee's immediate personal supervision, and such
6 licensee shall be held personally responsible for the contents of all such documents sealed by
7 such licensee.

8 2. The personal seal of an architect [or], professional engineer [or], professional land
9 surveyor, **or landscape architect** shall be the legal equivalent of the licensee's signature
10 whenever and wherever used, and the owner of the seal shall be responsible for the architectural,
11 engineering [or], surveying, **or landscape architectural** documents, as the case may be, when
12 the licensee places his or her personal seal on such plans, specifications, estimates, plats, reports,
13 surveys or other documents or instruments for, or to be used in connection with, any architectural
14 [or], engineering project [or], survey, **or landscape architectural project**.

15 3. Any architect, professional engineer [or], professional land surveyor, **or landscape**
16 **architect** may, but is not required to, attach a statement over his or her signature, authenticated
17 by his or her personal seal, specifying the particular plans, specifications, plats, reports, surveys
18 or other documents or instruments, or portions thereof, intended to be authenticated by the seal,
19 and disclaiming any responsibility for all other plans, specifications, estimates, reports, or other
20 documents or instruments relating to or intended to be used for any part or parts of the
21 architectural [or], engineering project [or], survey, **or landscape architect**.

22 4. Nothing in this section, or any rule or regulation of the board shall require any

23 professional to seal preliminary or incomplete documents.

329.050. 1. Applicants for examination or licensure pursuant to this chapter shall
2 possess the following qualifications:

3 (1) They must be persons of good moral character, have an education equivalent to the
4 successful completion of the tenth grade and be at least seventeen years of age;

5 (2) If the applicants are apprentices, they shall have served and completed, as an
6 apprentice under the supervision of a licensed cosmetologist, the time and studies required by
7 the board which shall be no less than three thousand hours for cosmetologists, and no less than
8 [seven hundred eighty] **eight hundred** hours for manicurists and no less than fifteen hundred
9 hours for esthetics. However, when the classified occupation of manicurist is apprenticed in
10 conjunction with the classified occupation of cosmetologist, the apprentices shall be required to
11 successfully complete the apprenticeship of no less than a total of three thousand hours;

12 (3) If the applicants are students, they shall have had the required time in a licensed
13 school of no less than one thousand five hundred hours training or the credit hours determined
14 by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal
15 Regulations, as amended, for the classification of cosmetologist, with the exception of public
16 vocational technical schools in which a student shall complete no less than one thousand two
17 hundred twenty hours training. All students shall complete no less than four hundred hours or
18 the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34
19 of the Code of Federal Regulations, as amended, for the classification of manicurist. All students
20 shall complete no less than seven hundred fifty hours or the credit hours determined by the
21 formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal
22 Regulations, as amended, for the classification of esthetician. However, when the classified
23 occupation of manicurist is taken in conjunction with the classified occupation of cosmetologist,
24 the student shall not be required to serve the extra four hundred hours or the credit hours
25 determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of
26 Federal Regulations, as amended, otherwise required to include manicuring of nails; and

27 (4) They shall have passed an examination to the satisfaction of the board.

28 2. A person may apply to take the examination required by subsection 1 of this section
29 if the person is a graduate of a school of cosmetology or apprentice program in another state or
30 territory of the United States which has substantially the same requirements as an educational
31 establishment licensed pursuant to this chapter.

32 3. Each application shall contain a statement that, subject to the penalties of making a
33 false affidavit or declaration, the application is made under oath or affirmation and that its
34 representations are true and correct to the best knowledge and belief of the person signing the
35 application.

36 4. The sufficiency of the qualifications of applicants shall be determined by the board,
37 but the board may delegate this authority to its executive director subject to such provisions as
38 the board may adopt.

39 5. For the purpose of meeting the minimum requirements for examination, training
40 completed by a student or apprentice shall be recognized by the board for a period of no more
41 than five years from the date it is received.

 329.070. 1. Apprentices or students shall be licensed with the board and shall pay a
2 student fee or an apprentice fee prior to beginning their course, and shall be of good moral
3 character and have an education equivalent to the successful completion of the tenth grade.

4 2. An apprentice or student shall not be enrolled in a course of study that shall exceed
5 [eight] **twelve** hours per day or that is less than three hours per day. The course of study shall
6 be no more than [forty-eight] **seventy-two** hours per week and no less than fifteen hours per
7 week.

8 3. Every person desiring to act as an apprentice in any of the classified occupations
9 within this chapter shall file with the board a written application on a form supplied to the
10 applicant, together with the required apprentice fee.

**332.069. 1. Any person not registered as a licensed dentist in Missouri shall not
2 engage in the practice of dentistry, as defined in section 332.171, across state lines, except
3 as provided in this section.**

4 **2. For the purposes of this chapter, the "practice of dentistry across state lines"
5 shall mean:**

6 **(1) The rendering of a written or otherwise documented dental opinion concerning
7 the diagnosis or treatment of a patient within this state by a dentist located outside this
8 state as a result of transmission of individual patient data by electronic, telephonic or other
9 means from within this state or any other state to such dentist or dentist's agent; or**

10 **(2) The rendering of treatment to a patient within this state by a dentist located
11 outside this state as a result of transmission of individual patient data by electronic,
12 telephonic or other means from within this state or any other state to such dentist or
13 dentist's agent.**

14 **3. A dentist located outside of this state shall not be required to obtain a license
15 when:**

16 **(1) In consultation with a dentist licensed to practice dentistry in this state; and**

17 **(2) The dentist licensed in this state retains the ultimate authority and
18 responsibility for the diagnosis or treatment in the care of the patient located within this
19 state; or**

20 **(3) Evaluating a patient or rendering an oral, written or otherwise documented**

21 **dental opinion when providing testimony or records for the purpose of any civil or criminal**
22 **action before any judicial or administrative proceeding of this state or other forum in this**
23 **state.**

332.071. A person or other entity "practices dentistry" within the meaning of this chapter
2 who:

3 (1) Undertakes to do or perform dental work or dental services or dental operations or
4 oral surgery, by any means or methods, **including the use of lasers**, gratuitously or for a salary
5 or fee or other reward, paid directly or indirectly to the person or to any other person or entity;

6 (2) Diagnoses or professes to diagnose, prescribes for or professes to prescribe for, treats
7 or professes to treat, any disease, pain, deformity, deficiency, injury or physical condition of
8 human teeth or adjacent structures or treats or professes to treat any disease or disorder or lesions
9 of the oral regions;

10 (3) Attempts to or does replace or restore a part or portion of a human tooth;

11 (4) Attempts to or does extract human teeth or attempts to or does correct malformations
12 of human teeth or jaws;

13 (5) Attempts to or does adjust an appliance or appliances for use in or used in connection
14 with malposed teeth in the human mouth;

15 (6) Interprets or professes to interpret or read dental radiographs;

16 (7) Administers an anesthetic in connection with dental services or dental operations or
17 dental surgery;

18 (8) Undertakes to or does remove hard and soft deposits from or polishes natural and
19 restored surfaces of teeth;

20 (9) Uses or permits to be used for the person's benefit or for the benefit of any other
21 person or other entity the following titles or words in connection with the person's name:
22 "Doctor", "Dentist", "Dr.", "D.D.S.", or "D.M.D.", or any other letters, titles, degrees or
23 descriptive matter which directly or indirectly indicate or imply that the person is willing or able
24 to perform any type of dental service for any person or persons, or uses or permits the use of for
25 the person's benefit or for the benefit of any other person or other entity any card, directory,
26 poster, sign or any other means by which the person indicates or implies or represents that the
27 person is willing or able to perform any type of dental services or operation for any person;

28 (10) Directly or indirectly owns, leases, operates, maintains, manages or conducts an
29 office or establishment of any kind in which dental services or dental operations of any kind are
30 performed for any purpose; but this section shall not be construed to prevent owners or lessees
31 of real estate from lawfully leasing premises to those who are qualified to practice dentistry
32 within the meaning of this chapter;

33 (11) Constructs, supplies, reproduces or repairs any prosthetic denture, bridge, artificial

34 restoration, appliance or other structure to be used or worn as a substitute for natural teeth,
35 except when one, not a registered and licensed dentist, does so pursuant to a written uniform
36 laboratory work order, in the form to be prescribed by the board and copies of which shall be
37 retained by the nondentist for two years, of a dentist registered and currently licensed in Missouri
38 and which the substitute in this subdivision described is constructed upon or by use of casts or
39 models made from an impression furnished by a dentist registered and currently licensed in
40 Missouri;

41 (12) Attempts to or does place any substitute described in subdivision (11) of this section
42 in a human mouth or attempts to or professes to adjust any substitute or delivers any substitute
43 to any person other than the dentist upon whose order the work in producing the substitute was
44 performed;

45 (13) Advertises, solicits, or offers to or does sell or deliver any substitute described in
46 subdivision (11) of this section or offers to or does sell the person's services in constructing,
47 reproducing, supplying or repairing the substitute to any person other than a registered and
48 licensed dentist in Missouri; **or**

49 (14) Undertakes to do or perform any physical evaluation of a patient in the person's
50 office or in a hospital, clinic, or other medical or dental facility prior to or incident to the
51 performance of any dental services, dental operations, or dental surgery.

332.171. 1. The board shall upon application [and without examination] issue a
2 specialist's [certificate] **license** to any [registered and] currently licensed dentist in Missouri who
3 has been certified in any specialty by an [American] **examining** board recognized by the
4 American Dental Association[; but any]. **Any** such application shall be accompanied by the
5 required [specialty] fee.

6 2. Any [registered and] currently licensed dentist in Missouri who **has completed a**
7 **dental specialty program accredited by the Council on Dental Accreditation but** is not
8 eligible [to apply] **for specialty licensure** under subsection 1 [above] **of this section**, may apply
9 to the board for [certification] **specialty licensure** in one of the [special] **specialty** areas
10 [approved] **recognized** by the American Dental Association [for specialty practice]. Each such
11 application shall be accompanied by the required [specialty] fee. The board shall establish by
12 rule the minimum requirements for specialty [certification] **licensure** under this subsection. **The**
13 **board shall issue a specialty licensure to an applicant pursuant to this subsection so long**
14 **as the applicant meets the requirements of this subsection.**

15 3. [An examination committee, appointed by the board, consisting of three dentists who
16 have been certified by an American board approved by the American Dental Association as
17 having met the standards set by that association for the specialty for which application is made,
18 shall examine each applicant for a specialty at the time and place fixed by the board in a manner

19 to thoroughly test his qualifications in the specialty applied for, and report to the board as to
20 whether the applicant is qualified in the specialty.

21 4. In the event any applicant fails to pass the examination and is reported by the
22 examining committee as not qualified, he may upon application to the board be reexamined by
23 the committee at such time and place as the board may specify, but any such applicant shall pay
24 a reexamination fee equivalent to the specialty fee.] **The board shall grant a license in one of**
25 **the specialty areas recognized by the American Dental Association to a dentist who has**
26 **been so certified or licensed and is practicing in another state, province, or territory if the**
27 **applicant meets the following requirements and the application is accompanied by the**
28 **required fee:**

29 (1) **The applicant currently holds a Missouri license to practice dentistry or obtains**
30 **one through the provisions of such license pursuant to sections 332.131 and 332.181 or**
31 **section 332.211.**

32 (2) **The applicant meets the educational requirements for specialty licensure**
33 **required of original applicants for specialty licensure in the state of Missouri as required**
34 **in subsection 1 or 2 of this section.**

35 (3) **The applicant meets such other minimum requirements as may be established**
36 **by rule of the board for specialty licensure under this subsection.**

37 4. **The board may establish a committee for each American Dental Association**
38 **recognized specialty applied for to be comprised of at least two dentists appointed by the**
39 **board who hold Missouri specialty licenses in the recognized specialty and who are current**
40 **diplomats of an American specialty board recognized by the American Dental Association.**
41 **Each committee shall assist the board in evaluating an applicant for specialty licensure in**
42 **the recognized specialty for which that committee was established and assume such other**
43 **duties as shall be established by rule of the board.**

44 5. Each member of [each examining] **a specialty** committee appointed by the board as
45 provided in this section shall receive [as] compensation **in** an amount set by the board, not to
46 exceed fifty dollars[,] for each day spent in the performance of his **or her** duties on the
47 committee, and each member shall be reimbursed for all actual and necessary expenses incurred
48 in the performance of his **or her** duties.

49 6. [The board shall issue to each applicant who has been recommended as qualified by
50 the examining committee, as provided in subsection 3 of this section, a certificate of registration
51 to practice dentistry in the specialty in which he has been so recommended.] **All specialty**
52 **licenses shall be subject to discipline for cause as set forth in section 332.321 and each**
53 **specialty license holder shall renew his or her specialty license or licenses as provided in**
54 **section 332.181 and shall pay the required renewal fee.**

55 7. [The board may also grant without examination a certificate of registration and a
56 license in one of the specialty areas recognized by the American Dental Association to a dentist
57 who has been so certified and/or licensed in another state, if the applicant meets the following
58 requirements:

59 (1) Applicant must either currently hold a Missouri license to practice dentistry or obtain
60 one through the provisions of sections 332.131 and 332.181, or through the provisions of section
61 332.211;

62 (2) Applicant must have taken and passed an examination equivalent to that given in
63 Missouri and have been granted a specialty license in another state. It is the obligation of the
64 applicant to provide proper documentation which must include the content and grades received
65 in each portion of the examination and be certified by the state which administered the
66 examination. Determination as to whether an examination taken in another state is equivalent
67 to that given in Missouri will be made by the current Missouri specialty examining committee
68 in the appropriate specialty area;

69 (3) Applicant must have met the same educational requirements for certification and
70 licensure under this subsection as required of original applicants in the state of Missouri, as
71 established by rule by the board.

72 8. All such certificates shall be subject to revocation and suspension for the causes set
73 forth in section 332.321 and each certificate holder shall renew his regular license as provided
74 in section 332.181 and shall pay the regular renewal fee provided therefor and shall also renew
75 his specialty license and shall pay a specialty renewal fee.] **The board shall issue to each**
76 **applicant who has been recommended as qualified by the speciality committee, as provided**
77 **in subsection 4 of this section, a license to practice dentistry in the specialty in which he or**
78 **she has been so recommended.**

 332.181. 1. No person shall engage in the practice of dentistry in Missouri without
2 having first secured a license as provided for in this chapter.

3 2. Any person desiring a license to practice dentistry in Missouri shall **pay the required**
4 **fee and** make application to the board on a form prescribed by the board pursuant to section
5 332.141. An application for licensure shall be active for one year after the date it is received by
6 the board. The application becomes void if not completed within such one-year period.

7 3. All persons once licensed to practice dentistry in Missouri shall renew his or her
8 license to practice dentistry in Missouri on or before the license renewal date and shall display
9 his or her license for each current licensing period in the office in which he or she practices or
10 offers to practice dentistry.

11 4. Effective with the licensing period beginning on December 1, 2002, a license shall be
12 renewed every two years. [The board shall not renew the license of any dentist unless the

13 licensee provides satisfactory evidence that he or she has completed fifty hours of continuing
14 education within a two-year period.] **To renew a license, each dentist shall submit satisfactory**
15 **evidence of completion of fifty hours of continuing education during the two-year period**
16 **immediately preceding the renewal period. Each dentist shall maintain documentation of**
17 **completion of the required continuing education hours as provided by rule. Failure to**
18 **obtain the required continuing education hours, submit satisfactory evidence, or maintain**
19 **documentation is a violation of section 332.321 and may subject the licensee to discipline.**
20 **As provided by rule,** the board may **waive or** extend the time requirements for completion of
21 continuing education [up to six months] for reasons related to health, military service, foreign
22 residency or for other good cause. All requests for **waivers or** extensions of time shall be made
23 in writing and submitted to the board before the renewal date. [The board may waive the
24 requirements for continuing education for retired or disabled dentists or for other good cause.]

25 5. Any licensed dentist who fails to renew his or her license on or before the renewal
26 date may apply to the board for renewal of his or her license within four years subsequent to the
27 date of the license expiration[, provided that any such applicant shall pay a reinstatement fee for
28 the license] **upon payment of the reinstatement fee and presentation of satisfactory evidence**
29 **that he or she has completed the continuing education requirements the same as if the**
30 **license had remained active. The license of any dentist who fails to renew within four years**
31 **of the time his or her license has expired shall be void. The dentist may reapply for a**
32 **license, provided that, unless application is made pursuant to section 332.211, he or she**
33 **shall pay the same fees and be examined in the same manner as an original applicant for**
34 **licensure as a dentist.**

35 [6. The license of any dentist who fails to renew within four years of the time his or her
36 license has expired shall be void. The dentist may reapply for a license, provided that, unless
37 application is made pursuant to section 332.211, he or she shall pay the same fees and be
38 examined in the same manner as an original applicant for licensure as a dentist. A currently
39 licensed dentist in Missouri may apply to the board to be placed on an inactive list of dentists,
40 and during the time his or her name remains on the inactive list, he or she shall not practice
41 dentistry. If a dentist wishes to be removed from the inactive list, unless he or she applies
42 pursuant to section 332.211, he or she shall apply for a current license and pay the license fees
43 for the years between the date of the entry of his or her name on the inactive list and the date of
44 issuance of his current license. If the dentist has been on the inactive list for more than four
45 years, he or she shall be examined in the same manner as an original applicant for licensure as
46 a dentist.

47 7. A currently licensed dentist in Missouri who does not maintain a practice in this state
48 or does not reside in this state may apply to the board to be placed on an out-of-state licensee list

49 of dentists. Any dentist applying to be so licensed shall accompany his or her application with
50 a fee not greater than the licensure fee for a licensee who maintains a practice in this state or who
51 resides in this state. The required fee shall be established by the board, by rule, as with other
52 licensing fees.]

332.261. 1. No person shall engage in the practice of dental hygiene without having first
2 secured a license as provided for in this chapter.

3 2. Any person desiring a license to practice dental hygiene in Missouri shall **pay the**
4 **required fee and** make application to the board on a form prescribed by the board pursuant to
5 section 332.241. An application for licensure shall be active for one year after the date it is
6 received by the board. The application becomes void if not completed within such one-year
7 period.

8 3. All persons once licensed to practice as a dental hygienist in Missouri shall renew his
9 or her license to practice on or before the renewal date and shall display his or her license for
10 each current licensing period in the office in which he or she practices or offers to practice as a
11 dental hygienist.

12 4. Effective with the licensing period beginning on December 1, 2002, a license shall be
13 renewed every two years. [The board shall not renew the license of any hygienist unless the
14 licensee provides satisfactory evidence that he or she has completed thirty hours of continuing
15 education within a two-year period.] **To renew a license, each dental hygienist shall submit**
16 **satisfactory evidence of completion of thirty hours of continuing education during the two-**
17 **year period immediately preceding the renewal period. Each dental hygienist shall**
18 **maintain documentation of completion of the required continuing education hours as**
19 **provided by rule. Failure to obtain the required continuing education hours, submit**
20 **satisfactory evidence, or maintain documentation is a violation of section 332.321, and may**
21 **subject the licensee to discipline. As provided by rule, the board may waive or extend the**
22 **time requirements for completion of the continuing education [up to six months] for reasons**
23 **related to health, military service, foreign residency or for other good cause. All requests for**
24 **waivers or extensions of time shall be made in writing and submitted to the board before the**
25 **renewal date. [The board may waive the requirements for continuing education for retired or**
26 **disabled hygienists or for other good cause.]**

27 5. Any licensed dental hygienist who fails to renew his or her license on or before the
28 renewal date may apply to the board for renewal of his or her license within four years
29 subsequent to the date of the license expiration[, provided that any such applicant shall pay a
30 reinstatement fee for the license] **upon payment of the reinstatement fee and presentation of**
31 **satisfactory evidence that he or she has completed the continuing education requirements**
32 **the same as if the license had remained active. The license of any dental hygienist who fails**

33 **to renew within four years of the time his or her license has expired shall be void. The**
34 **dental hygienist may reapply for a license; provided that, unless application is made**
35 **pursuant to section 332.281, he or she shall pay the same fees and be examined in the same**
36 **manner as an original applicant for licensure as a dental hygienist.**

37 [6. The license of any dental hygienist who fails to renew within four years of the time
38 that his or her license expired shall be void. The dental hygienist may apply for a new license,
39 provided that, unless application is made pursuant to section 332.281, he or she shall pay the
40 same fees and be examined in the same manner as an original applicant for licensure as a dental
41 hygienist. A currently licensed dental hygienist in Missouri may apply to the board to be placed
42 on an inactive list of dental hygienists, and during the time his or her name remains on the
43 inactive list, he or she shall not practice as a dental hygienist. If a dental hygienist wishes to be
44 removed from the inactive list, unless he or she applies pursuant to section 332.281, he or she
45 shall apply for a current license and pay the license fees for the years between the date of the
46 entry of his or her name on the inactive list and the date of issuance of his or her current license.
47 If the dental hygienist has been on the inactive list for more than four years, he or she shall be
48 examined in the same manner as an original applicant for licensure as a dental hygienist.

49 7. A currently licensed dental hygienist in Missouri who does not practice in this state
50 or who does not reside in this state may apply to the board to be placed on an out-of-state
51 registration list of dental hygienists. Any dental hygienist applying to be so licensed shall
52 accompany his or her application with a fee not greater than the license fee for a licensee who
53 practices in this state or resides in this state. The required fee shall be established by the board,
54 by rule, as with other licensing fees.]

332.321. 1. The board may refuse to issue or renew a permit or license required pursuant
2 to this chapter for one or any combination of causes stated in subsection 2 of this section or the
3 board may, as a condition to issuing or renewing any such permit or license, require a person to
4 submit himself or herself for identification, intervention, treatment or rehabilitation by the
5 well-being committee as provided in section 332.327. The board shall notify the applicant in
6 writing of the reasons for the refusal and shall advise the applicant of his or her right to file a
7 complaint with the administrative hearing commission as provided by chapter 621, RSMo.

8 2. The board may cause a complaint to be filed with the administrative hearing
9 commission as provided by chapter 621, RSMo, against any holder of any permit or license
10 required by this chapter or any person who has failed to renew or has surrendered his or her
11 permit or license for any one or any combination of the following causes:

12 (1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic
13 beverage to an extent that such use impairs a person's ability to perform the work of any
14 profession licensed or regulated by this chapter;

15 (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty
16 or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United
17 States, for any offense reasonably related to the qualifications, functions or duties of any
18 profession licensed or regulated pursuant to this chapter, for any offense an essential element of
19 which is fraud, dishonesty or an act of violence, or any offense involving moral turpitude,
20 whether or not sentence is imposed;

21 (3) Use of fraud, deception, misrepresentation or bribery in securing any permit or
22 license issued pursuant to this chapter or in obtaining permission to take any examination given
23 or required pursuant to this chapter;

24 (4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by
25 fraud, deception or misrepresentation; or increasing charges when a patient utilizes a third-party
26 payment program; or for repeated irregularities in billing a third party for services rendered to
27 a patient. For the purposes of this subdivision, irregularities in billing shall include:

28 (a) Reporting charges for the purpose of obtaining a total payment in excess of that
29 usually received by the dentist for the services rendered;

30 (b) Reporting incorrect treatment dates for the purpose of obtaining payment;

31 (c) Reporting charges for services not rendered;

32 (d) Incorrectly reporting services rendered for the purpose of obtaining payment that is
33 greater than that to which the person is entitled;

34 (e) Abrogating the co-payment or deductible provisions of a third-party payment
35 contract. Provided, however, that this paragraph shall not prohibit a discount, credit or reduction
36 of charges provided under an agreement between the licensee and an insurance company, health
37 service corporation or health maintenance organization licensed pursuant to the laws of this state;
38 or governmental third-party payment program; or self-insurance program organized, managed
39 or funded by a business entity for its own employees or labor organization for its members;

40 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty
41 in the performance of, or relating to one's ability to perform, the functions or duties of any
42 profession licensed or regulated by this chapter;

43 (6) Violation of, or assisting or enabling any person to violate, any provision of this
44 chapter, or any lawful rule or regulation adopted pursuant to this chapter;

45 (7) Impersonation of any person holding a permit or license or allowing any person to
46 use his or her permit, license or diploma from any school;

47 (8) Disciplinary action against the holder of a license or other right to practice any
48 profession regulated by this chapter imposed by another state, province, territory, federal agency
49 or country upon grounds for which discipline is authorized in this state;

50 (9) A person is finally adjudicated incapacitated or disabled by a court of competent

51 jurisdiction;

52 (10) Assisting or enabling any person to practice or offer to practice, by lack of
53 supervision or in any other manner, any profession licensed or regulated by this chapter who is
54 not registered and currently eligible to practice pursuant to this chapter;

55 (11) Issuance of a permit or license based upon a material mistake of fact;

56 (12) Failure to display a valid certificate, permit or license if so required by this chapter
57 or by any rule promulgated hereunder;

58 (13) Violation of any professional trust or confidence;

59 (14) Use of any advertisement or solicitation that is false, misleading or deceptive to the
60 general public or persons to whom the advertisement or solicitation is primarily directed. False,
61 misleading or deceptive advertisements or solicitations shall include, but not be limited to:

62 (a) Promises of cure, relief from pain or other physical or mental condition, or improved
63 physical or mental health;

64 (b) Any misleading or deceptive statement offering or promising a free service. Nothing
65 herein shall be construed to make it unlawful to offer a service for no charge if the offer is
66 announced as part of a full disclosure of routine fees including consultation fees;

67 (c) Any misleading or deceptive claims of patient cure, relief or improved condition;
68 superiority in service, treatment or materials; new or improved service, treatment or material; or
69 reduced costs or greater savings. Nothing herein shall be construed to make it unlawful to use
70 any such claim if it is readily verifiable by existing documentation, data or other substantial
71 evidence. Any claim that exceeds or exaggerates the scope of its supporting documentation, data
72 or evidence is misleading or deceptive;

73 (d) Any announced fee for a specified service where that fee does not include the charges
74 for necessary related or incidental services, or where the actual fee charged for that specified
75 service may exceed the announced fee, but it shall not be unlawful to announce only the
76 maximum fee that can be charged for the specified service, including all related or incidental
77 services, modified by the term "up to" if desired;

78 (e) Any announcement in any form including the term "specialist" or the phrase "limited
79 to the specialty of" unless each person named in conjunction with the term or phrase, or
80 responsible for the announcement, holds a valid Missouri certificate and license evidencing that
81 the person is a specialist in that area;

82 (f) Any announcement containing any of the terms denoting recognized specialties, or
83 other descriptive terms carrying the same meaning, unless the announcement clearly designates
84 by list each dentist not licensed as a specialist in Missouri who is sponsoring or named in the
85 announcement, or employed by the entity sponsoring the announcement, after the following
86 clearly legible or audible statement: "Notice: the following dentist(s) in this practice is (are) not

87 licensed in Missouri as specialists in the advertised dental specialty(s) of";

88 (g) Any announcement containing any terms denoting or implying specialty areas that
89 are not recognized by the American Dental Association;

90 (15) Violation of the drug laws or rules and regulations of this state, any other state or
91 the federal government;

92 (16) Failure or refusal to properly guard against contagious, infectious or communicable
93 diseases or the spread thereof;

94 (17) Failing to maintain his or her office or offices, laboratory, equipment and
95 instruments in a safe and sanitary condition;

96 (18) Accepting, tendering or paying "rebates" to or "splitting fees" with any other person;
97 provided, however, that nothing herein shall be so construed as to make it unlawful for a dentist
98 practicing in a partnership or as a corporation organized pursuant to the provisions of chapter
99 356, RSMo, to distribute profits in accordance with his or her stated agreement;

100 (19) Administering, or causing or permitting to be administered, nitrous oxide gas in any
101 amount to himself or herself, or to another unless as an adjunctive measure to patient
102 management;

103 (20) Being unable to practice as a dentist, specialist or hygienist with reasonable skill
104 and safety to patients by reasons of professional incompetency, or because of illness,
105 drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical
106 condition. In enforcing this subdivision the board shall, after a hearing before the board, upon
107 a finding of probable cause, require the dentist or specialist or hygienist to submit to a
108 reexamination for the purpose of establishing his or her competency to practice as a dentist,
109 specialist or hygienist, which reexamination shall be conducted in accordance with rules adopted
110 for this purpose by the board, including rules to allow the examination of the dentist's, specialist's
111 or hygienist's professional competence by at least three dentists or fellow specialists, or to submit
112 to a mental or physical examination or combination thereof by at least three physicians. One
113 examiner shall be selected by the dentist, specialist or hygienist compelled to take examination,
114 one selected by the board, and one shall be selected by the two examiners so selected. Notice
115 of the physical or mental examination shall be given by personal service or registered mail.
116 Failure of the dentist, specialist or hygienist to submit to the examination when directed shall
117 constitute an admission of the allegations against him or her, unless the failure was due to
118 circumstances beyond his or her control. A dentist, specialist or hygienist whose right to practice
119 has been affected pursuant to this subdivision shall, at reasonable intervals, be afforded an
120 opportunity to demonstrate that he or she can resume competent practice with reasonable skill
121 and safety to patients.

122 (a) In any proceeding pursuant to this subdivision, neither the record of proceedings nor

123 the orders entered by the board shall be used against a dentist, specialist or hygienist in any other
124 proceeding. Proceedings pursuant to this subdivision shall be conducted by the board without
125 the filing of a complaint with the administrative hearing commission;

126 (b) When the board finds any person unqualified because of any of the grounds set forth
127 in this subdivision, it may enter an order imposing one or more of the following: denying his or
128 her application for a license; permanently withholding issuance of a license; administering a
129 public or private reprimand; placing on probation, suspending or limiting or restricting his or her
130 license to practice as a dentist, specialist or hygienist for a period of not more than five years;
131 revoking his or her license to practice as a dentist, specialist or hygienist; requiring him or her
132 to submit to the care, counseling or treatment of physicians designated by the dentist, specialist
133 or hygienist compelled to be treated; or requiring such person to submit to identification,
134 intervention, treatment or rehabilitation by the well-being committee as provided in section
135 332.327. For the purpose of this subdivision, "license" includes the certificate of registration,
136 or license, or both, issued by the board.

137 3. After the filing of such complaint, the proceedings shall be conducted in accordance
138 with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing
139 commission that the grounds, provided in subsection 2, for disciplinary action are met, the board
140 may, singly or in combination:

141 (1) Censure or place the person or firm named in the complaint on probation on such
142 terms and conditions as the board deems appropriate for a period not to exceed five years; or

143 (2) Suspend the license, certificate or permit for a period not to exceed three years; or

144 (3) Revoke the license, certificate, or permit. In any order of revocation, the board may
145 provide that the person shall not apply for licensure for a period of not less than one year
146 following the date of the order of revocation; or

147 (4) Cause the person or firm named in the complaint to make restitution to any patient,
148 or any insurer or third-party payer who shall have paid in whole or in part a claim or payment for
149 which they should be reimbursed, where restitution would be an appropriate remedy, including
150 the reasonable cost of follow-up care to correct or complete a procedure performed or one that
151 was to be performed by the person or firm named in the complaint; or

152 (5) Request the attorney general to bring an action in the circuit court of competent
153 jurisdiction to recover a civil penalty on behalf of the state in an amount to be assessed by the
154 court.

155 **4. If the board concludes that a dentist or dental hygienist has committed an act or**
156 **is engaging in a course of conduct that would be grounds for disciplinary action and**
157 **constitutes a clear and present danger to the public health and safety, the board may file**
158 **a complaint before the administrative hearing commission requesting an expedited hearing**

and specifying the conduct that gives rise to the danger and the nature of the proposed restriction or suspension of the dentist's or dental hygienist's license. Within fifteen days after service of the complaint on the dentist or dental hygienist, the administrative hearing commission shall conduct a preliminary hearing to determine whether the alleged conduct of the dentist or the dental hygienist appears to constitute a clear and present danger to the public health and safety that justifies that the dentist's or dental hygienist's license be immediately restricted or suspended. The burden of proving that a dentist or dental hygienist is a clear and present danger to the public health and safety shall be upon the Missouri dental board. The administrative hearing commission shall issue its decision immediately after the hearing and shall either grant to the board the authority to suspend or restrict the license or dismiss the action.

5. If the administrative hearing commission grants temporary authority to the board to restrict or suspend a dentist's or dental hygienist's license, the dentist or dental hygienist named in the complaint may request a full hearing before the administrative hearing commission. A request for a full hearing shall be made within thirty days after the administrative hearing commission issues its decision. The administrative hearing commission shall, if requested by the dentist or dental hygienist named in the complaint, set a date to hold a full hearing under the provisions of chapter 621, RSMo, regarding the activities alleged in the initial complaint filed by the board. The administrative hearing commission shall set the date for full hearing within ninety days from the date its decision was issued. Either party may request continuances, which shall be granted by the administrative hearing commission upon a showing of good cause by either party or consent of both parties. If a request for a full hearing is not made within thirty days, the authority to impose discipline shall become final and the board shall set the matter for hearing in accordance with section 621.110, RSMo.

6. If the administrative hearing commission dismisses without prejudice the complaint filed by the board pursuant to subsection 4 of this section or dismisses the action based on a finding that the board did not meet its burden of proof establishing a clear and present danger, such dismissal shall not bar the board from initiating a subsequent action on the same grounds in accordance with this chapter and chapters 536 and 621, RSMo.

7. Notwithstanding any other provisions of section 332.071 or of this section, a currently licensed dentist in Missouri may enter into an agreement with individuals and organizations to provide dental health care, provided such agreement does not permit or compel practices that violate any provision of this chapter.

[5.] 8. At all proceedings for the enforcement of these or any other provisions of this chapter the board shall, as it deems necessary, select, in its discretion, either the attorney general

195 or one of the attorney general's assistants designated by the attorney general or other legal
196 counsel to appear and represent the board at each stage of such proceeding or trial until its
197 conclusion.

198 [6.] 9. If at any time when any discipline has been imposed pursuant to this section or
199 pursuant to any provision of this chapter, the licensee removes himself or herself from the state
200 of Missouri, ceases to be currently licensed pursuant to the provisions of this chapter, or fails to
201 keep the Missouri dental board advised of his or her current place of business and residence, the
202 time of his or her absence, or unlicensed status, or unknown whereabouts shall not be deemed
203 or taken as any part of the time of discipline so imposed.

332.327. 1. The board may establish an impaired dentist or dental hygienist committee,
2 to be designated as the well-being committee, to promote the early identification, intervention,
3 treatment and rehabilitation of dentists or dental hygienists who may be impaired by reasons of
4 illness, substance abuse, or as a result of any physical or mental condition. The board may enter
5 into a contractual agreement with a nonprofit corporation or a dental association for the purpose
6 of creating, supporting and maintaining a committee to be designated as the well-being
7 committee. The board may promulgate administrative rules subject to the provisions of this
8 section and chapter 536, RSMo, to effectuate and implement any committee formed pursuant to
9 this section. The board may expend appropriated funds necessary to provide for operational
10 expenses of the committee formed pursuant to this section. Any member of the well-being
11 committee, as well as any administrator, staff member, consultant, agent or employee of the
12 committee, acting within the scope of his or her duties and without actual malice and, all other
13 persons who furnish information to the committee in good faith and without actual malice, shall
14 not be liable for any claim of damages as a result of any statement, decision, opinion,
15 investigation or action taken by the committee, or by any individual member of the committee.

16 2. All information, interviews, reports, statements, memoranda or other documents
17 furnished to or produced by the well-being committee, as well as communications to or from the
18 committee, any findings, conclusions, interventions, treatment, rehabilitation or other
19 proceedings of the committee which in any way pertain to a licensee who may be, or who
20 actually is, impaired shall be privileged and confidential.

21 3. All records and proceedings of the well-being committee which pertain or refer to a
22 licensee who may be, or who actually is, impaired shall be privileged and confidential and shall
23 be used by the committee and its members only in the exercise of the proper function of the
24 committee and shall not be considered public records pursuant to chapter 610, RSMo, and shall
25 not be subject to court subpoena or subject to discovery or introduction as evidence in any civil,
26 criminal or administrative proceedings except as provided in subsection 4 of this section.

27 4. The well-being committee may disclose information relative to an impaired licensee

28 only when:

29 (1) It is essential to disclose the information to further the intervention, treatment or
30 rehabilitation needs of the impaired licensee and only to those persons or organization with a
31 need to know;

32 (2) Its release is authorized in writing by the impaired licensee;

33 (3) The committee is required to make a report to the board; or

34 (4) The information is subject to a court order.

35 5. In lieu of pursuing discipline against a dentist or dental hygienist for violating one or
36 more causes stated in subsection 2 of section 332.321, the board may enter into a diversion
37 agreement with a dentist or dental hygienist to refer the licensee to the dental well-being
38 committee under such terms and conditions as are agreed to by the board and licensee for a
39 period not to exceed five years. The board shall enter into no more than two diversion
40 agreements with any individual licensee. If the licensee violates a term or condition of a
41 diversion agreement entered into pursuant to this section, the board may elect to pursue
42 discipline against the licensee pursuant to chapter 621, RSMo, for the original conduct that
43 resulted in the diversion agreement, or for any subsequent violation of subsection 2 of section
44 332.321. While the licensee participates in the well-being committee, the time limitations of
45 section 620.154, RSMo, shall toll pursuant to subsection 7 of section 620.154, RSMo. All
46 records pertaining to diversion agreements are confidential and may only be released pursuant
47 to subdivision (7) of subsection 14 of section 620.010, RSMo.

48 **6. The board may disclose information and records to the well-being committee to**
49 **assist the committee in the identification, intervention, treatment, and rehabilitation of**
50 **dentists or dental hygienists who may be impaired by reason of illness, substance abuse,**
51 **or as the result of any physical or mental condition. The well-being committee shall keep**
52 **all information and records provided by the board confidential to the extent the board is**
53 **required to treat the information and records as closed to the public pursuant to chapter**
54 **620, RSMo.**

334.400. As used in sections 334.400 to 334.430, the following terms shall mean:

2 **(1) "Anesthesiologist", a physician who has completed a residency in anesthesiology**
3 **approved by the American Board of Anesthesiology or the American Osteopathic Board**
4 **of Anesthesiology;**

5 **(2) "Anesthesiologist assistant", a person who meets each of the following**
6 **conditions:**

7 **(a) Has graduated from an anesthesiologist assistant program accredited by the**
8 **American Medical Association's Committee on Allied Health Education and Accreditation**
9 **or by its successor agency;**

- 10 (b) Has passed the certifying examination administered by the National
11 Commission on Certification of Anesthesiologist Assistants;
- 12 (c) Has active certification by the National Commission on Certification of
13 Anesthesiologist Assistants; and
- 14 (d) Provides health care services delegated by a licensed anesthesiologist;
- 15 (3) "Anesthesiologist assistant supervision agreement", a written agreement, jointly
16 agreed upon protocols or standing order between a supervising anesthesiologist and an
17 anesthesiologist assistant, which provides for the delegation of health care services from
18 a supervising anesthesiologist to an anesthesiologist assistant and the review of such
19 services;
- 20 (4) "Applicant", any individual who seeks to become licensed as an anesthesiologist
21 assistant;
- 22 (5) "Continuing education", the offering of instruction or information to license
23 holders for the purpose of maintaining or increasing skills necessary for the safe and
24 competent practice of anesthetic care;
- 25 (6) "Department", the department of economic development or a designated agency
26 thereof;
- 27 (7) "Immediately available", in the same physical location or facility in which the
28 services are provided;
- 29 (8) "Physician", an individual licensed pursuant to this chapter, to practice
30 medicine and surgery or osteopathic medicine and surgery;
- 31 (9) "Supervision", control exercised over an anesthesiologist assistant working
32 within the same facility of the supervising anesthesiologist.

334.402. 1. An anesthesiologist assistant may assist the supervising anesthesiologist
2 in developing and implementing an anesthesia care plan for a patient. In providing
3 assistance to the supervising anesthesiologist, an anesthesiologist assistant shall have the
4 authority to:

- 5 (1) Obtain a comprehensive patient history, perform relevant elements of a physical
6 exam and present the history to the supervising anesthesiologist;
- 7 (2) Pretest and calibrate anesthesia delivery systems and obtain and interpret
8 information from the systems and monitors, in consultation with an anesthesiologist;
- 9 (3) Assist the supervising anesthesiologist with the implementation of medically
10 accepted monitoring techniques;
- 11 (4) Establish basic and advanced airway interventions, including intubation of the
12 trachea and performing ventilatory support;
- 13 (5) Administer intermittent vasoactive drugs and start and adjust vasoactive

14 infusions;

15 (6) Administer anesthetic drugs, adjuvant drugs, and accessory drugs;

16 (7) Assist the supervising anesthesiologist with the performance of epidural
17 anesthetic procedures, spinal anesthetic procedures, and other regional anesthetic
18 techniques;

19 (8) Administer blood, blood products, and supportive fluids;

20 (9) Provide assistance to a cardiopulmonary resuscitation team in response to a
21 life-threatening situation;

22 (10) Participate in administrative, research, and clinical teaching activities as
23 authorized by the supervising anesthesiologist; or

24 (11) Perform such other tasks not prohibited by law under the supervision of a
25 licensed anesthesiologist that an anesthesiologist assistant has been trained and is proficient
26 to perform.

27 2. An anesthesiologist shall at all times accept and be responsible for the oversight
28 of the health care services rendered by the anesthesiologist assistant.

29 3. Anesthesiologist assistants are prohibited from the following:

30 (1) An anesthesiologist assistant shall not prescribe any medications or controlled
31 substances;

32 (2) An anesthesiologist assistant shall not administer any drugs, medicines, devices,
33 or therapies the supervising anesthesiologist is not qualified or authorized to prescribe;

34 (3) An anesthesiologist assistant shall not practice or attempt to practice without
35 the supervision of a licensed anesthesiologist or in any location where the supervising
36 anesthesiologist is not immediately available for consultation, assistance, and intervention;
37 and

38 (4) An anesthesiologist assistant shall not bill a patient independently or directly
39 for any services or procedures provided by the anesthesiologist assistant.

40 4. An anesthesiologist assistant shall be clearly identified as an anesthesiologist
41 assistant and shall not use or permit to be used in the anesthesiologist assistant's behalf the
42 terms "doctor", "Dr.", or "doc" or in any way be identified as a physician or surgeon. An
43 anesthesiologist assistant shall not refer to a certificate of registration or authority, permit,
44 or license as "board-certified" or use any other terminology that may imply that the
45 anesthesiologist assistant is a physician or surgeon.

46 5. A student in any anesthesiologist assistant training program shall be identified
47 as a student anesthesiologist assistant or an anesthesiologist assistant student. Under no
48 circumstances shall such a student use or permit to be used on the student's behalf, the
49 terms "intern", "resident", or "fellow" or be identified in any way as a physician or

50 surgeon.

334.404. 1. Each person desiring a license pursuant to sections 334.400 to 334.430
2 shall make application to the board upon such forms and in such manner as may be
3 prescribed by the board and shall pay the required application fee as set by the board. The
4 application fee shall cover the cost of issuing the license and shall not be refundable. Each
5 application shall contain a statement that it is made under oath or affirmation and that its
6 representations are true and correct to the best knowledge and belief of the person signing
7 the application, subject to the penalties of making a false declaration or affidavit. Such
8 application shall include proof of certification from the National Commission on
9 Certification of Anesthesiologist Assistants or its successor, date of the certification, any
10 identification numbers, and any other information necessary for the board to verify the
11 certification.

12 2. The board, upon approval of the application from an applicant, shall issue a
13 license to such applicant.

14 3. A license is valid for two years from the date it is issued and may be renewed
15 biennially by filing an application for renewal with the board and paying the required
16 renewal fee as set by the board.

17 4. A blank form for application for renewal of licensure shall be mailed to each
18 person licensed in this state at his or her last known office or residence address.

19 5. A new license to replace any license lost, destroyed, or mutilated may be issued
20 to any applicant, subject to rules and regulations issued by the board upon the payment
21 of a reasonable fee.

334.406. Notwithstanding any of the provisions of sections 334.400 to 334.430, the
2 board may issue a temporary license to practice as an anesthesiologist assistant to an
3 applicant that has taken the examination and is awaiting the results. A temporary license
4 may be granted upon the payment of a temporary license fee, the submission of all
5 required documents, and the applicant meeting the necessary qualifications, as defined by
6 board rule. The temporary license shall be valid until the results of the examination are
7 announced. The temporary license may be renewed at the discretion of the board and
8 upon payment of the temporary license fee.

334.408. 1. Notwithstanding any law to the contrary, any person licensed pursuant
2 to sections 334.400 to 334.430 may apply to the board for an inactive license status on a
3 form furnished by the board. Upon receipt of the completed inactive status application
4 form and a determination by the board that the licensee meets the requirements defined
5 by board rule, the board shall declare the licensee inactive and shall place the licensee on
6 an inactive status list. A person that has an inactive license or has discontinued the

7 practice of an anesthesiologist assistant because of retirement shall not practice as an
8 anesthesiologist assistant within this state.

9 2. During the period of inactive status, the licensee shall not be required to comply
10 with the board's minimum requirements for continuing education.

11 3. If a licensee is granted inactive status, the licensee may return to active status by
12 notifying the board of the intention to resume the practice of an anesthesiologist assistant,
13 paying the appropriate fees, and meeting all established licensure requirements of the
14 board, as a condition of reinstatement.

15 4. Any licensee that allows the license to become inactive for a period of five years
16 or less may return the license to active status by notifying the board in advance of such
17 intention, paying the appropriate fees, and meeting all established licensure requirements
18 of the board, excluding the licensing examination, as a condition of reinstatement.

 334.410. Any person licensed to practice as an anesthesiologist assistant in this state
2 who retires from such practice shall file with the board an affidavit, on a form to be
3 furnished by the board, which states the date of retirement and such other facts to verify
4 the retirement as defined by board rule. Registration with the board must be renewed
5 pursuant to section 334.414 for any person that wants to resume the practice of an
6 anesthesiologist assistant.

 334.412. 1. Upon the applicant paying a fee equivalent to the required licensing fee
2 and furnishing the board with all locations of previous practice and licensure in
3 chronological order, the board may, subject to the prescribed rules and regulations,
4 license, without examination or additional certification, any qualified applicant that meets
5 the requirements of this state including any person that is licensed in any state or territory
6 of the United States or the District of Columbia with the authority to practice in the same
7 manner and to the same extent as anesthesiologist assistant is authorized to practice
8 pursuant to sections 334.400 to 334.430. Pursuant to sections 334.400 to 334.430, the board
9 shall have the authority to negotiate reciprocal compacts with licensing boards of other
10 states for the admission of licensed anesthesiologist assistants from Missouri to practice in
11 other states.

12 2. The board shall issue a license to any anesthesiologist assistant, who is licensed
13 in another jurisdiction and who has had no violations, suspensions, or revocations of a
14 license, to practice as an anesthesiologist assistant in any jurisdiction, provided that, such
15 person is licensed in a jurisdiction whose requirements are substantially equal to, or
16 greater than, the requirements for licensure of anesthesiologist assistants in Missouri at the
17 time the applicant applies for licensure.

 334.414. 1. The board shall issue a certificate of registration to any applicant that

2 meets the qualifications for an anesthesiologist assistant and that has paid the required
3 fees.

4 2. The board shall promulgate rules and regulations pertaining to:

5 (1) Establishing application forms to be furnished to all persons seeking
6 registration pursuant sections 334.400 to 334.430;

7 (2) Accepting certification by the National Commission on Certification of
8 Anesthesiologist Assistants or its successor in lieu of examinations for applicants for
9 registration pursuant to sections 334.400 to 334.430;

10 (3) Determining the form and design of the registration to be issued pursuant to
11 sections 334.400 to 334.430;

12 (4) Setting the amount of the fees for registration, licensure, and renewal pursuant
13 to sections 334.400 to 334.430. The fees shall be set at a level to produce revenue which
14 shall not substantially exceed the cost and expense of administering the provisions of
15 sections 334.400 to 334.430;

16 (5) Keeping a record of all of its proceedings regarding sections 334.400 to 334.430
17 and of all anesthesiologist assistants registered in this state.

18

19 No rule or portion of a rule promulgated pursuant to the authority of sections 334.400 to
20 334.430 shall become effective unless it has been promulgated pursuant to chapter 536,
21 RSMo.

22 3. The board shall have the authority to:

23 (1) Issue subpoenas to compel witnesses to testify or produce evidence in
24 proceedings to deny, suspend, or revoke registration; and

25 (2) Establish guidelines for anesthesiologist assistants pursuant to sections 334.400
26 to 334.430.

27 4. The board may refuse to issue, suspend, revoke, or renew any certificate of
28 registration or authority, permit, or license required pursuant to sections 334.400 to
29 334.430 for one or any combination of causes stated in subsection 5 of this section. The
30 board shall notify the applicant in writing of the reasons for the refusal, suspension, or
31 revocation and shall advise the applicant of the right to file a complaint with the
32 administrative hearing commission as provided by chapter 621, RSMo.

33 5. The board may cause a complaint to be filed with the administrative hearing
34 commission as provided by chapter 621, RSMo, against any holder of any certificate of
35 registration or authority, permit, or license required pursuant to sections 334.400 to
36 334.430 or against any person who has failed to renew or has surrendered a certificate of
37 registration or authority, permit, or license for any one or any combination of the following

38 **causes:**

39 **(1) Use or unlawful possession of any controlled substance, as defined in chapter**
40 **195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to**
41 **perform the work of an anesthesiologist assistant;**

42 **(2) The person has been finally adjudicated and found guilty, or entered a plea of**
43 **guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the**
44 **United States, for any offense reasonably related to the qualifications, functions or duties**
45 **of an anesthesiologist assistant, for any offense for which an essential element is fraud,**
46 **dishonesty, or an act of violence, or for any offense involving moral turpitude, whether or**
47 **not sentence is imposed;**

48 **(3) Use of fraud, deception, misrepresentation, or bribery in securing any certificate**
49 **of registration or authority, permit or license issued pursuant to sections 334.400 to 334.430**
50 **or in obtaining permission to take any examination given or required pursuant to sections**
51 **334.400 to 334.430;**

52 **(4) Obtaining or attempting to obtain any fee, charge, tuition, or other**
53 **compensation by fraud, deception, or misrepresentation;**

54 **(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or**
55 **dishonesty in the performance of the functions and duties of an anesthesiologist assistant;**

56 **(6) Violation of, or assisting or enabling any person to violate any provision of**
57 **sections 334.400 to 334.430 or any lawful rule or regulation adopted pursuant to sections**
58 **334.400 to 334.430;**

59 **(7) Impersonation of any person holding a certificate of registration or authority,**
60 **permit, or license or allowing any person to use a certificate of registration or authority,**
61 **permit, license or diploma from any school;**

62 **(8) Disciplinary action against the holder of a license or other right relating to the**
63 **practice of an anesthesiologist assistant granted by another state, territory, federal agency,**
64 **or country upon grounds for which revocation or suspension is authorized in this state;**

65 **(9) Final adjudication of insanity or incompetency by a court of competent**
66 **jurisdiction;**

67 **(10) Assisting or enabling any person to practice or offer to practice as an**
68 **anesthesiologist assistant who is not registered and currently eligible to practice pursuant**
69 **to sections 334.400 to 334.430;**

70 **(11) Issuance of a certificate of registration or authority, permit, or license based**
71 **upon a material mistake of fact;**

72 **(12) Violation of any professional trust or confidence;**

73 **(13) Violation of the ethical standards for an anesthesiologist assistant as defined**

74 by board rule; or

75 (14) Violation of chapter 195, RSMo, or rules and regulations of this state, any
76 other state, or the federal government.

77 6. After the filing of such complaint, the proceedings shall be conducted in
78 accordance with the provisions of chapter 621, RSMo. Upon a finding by the
79 administrative hearing commission that the grounds, provided in subsection 5 of this
80 section for disciplinary action are met, the board may, singly or in combination, censure
81 or place the person named in the complaint on probation with such terms and conditions
82 as the board deems appropriate for a period not to exceed ten years, or suspend his or her
83 license for a period not to exceed seven years, or revoke his or her license, certificate, or
84 permit.

85 7. An individual whose license has been revoked shall wait at least one year from
86 the date of revocation to apply for relicensure and shall not be eligible for a temporary
87 license. Relicensure shall be at the discretion of the board after compliance with all
88 requirements of sections 334.400 to 334.430.

89 8. Any person who violates any of the provisions of sections 334.400 to 334.430 is
90 guilty of class A misdemeanor.

334.416. 1. Every person licensed pursuant to sections 334.400 to 334.430 shall
2 renew his or her certificate of registration on or before the registration renewal date. The
3 application shall be made under oath on a form furnished by the board. The application
4 shall include, but not be limited to, disclosure of the following:

5 (1) The applicant's full name and his or her office and residence address;

6 (2) The date and number of his or her license;

7 (3) All final disciplinary actions taken against the applicant by any professional
8 medical or osteopathic association or society, licensed hospital or medical staff of the
9 hospital, state, territory federal agency or country; and

10 (4) Information concerning the applicant's current physical and mental fitness to
11 practice as an anesthesiologist assistant.

12 2. A blank form for application for registration shall be mailed to each person
13 licensed in this state at his or her last known office or residence address. The failure to
14 receive the application form does not relieve any person of the duty to register and pay the
15 fee required pursuant to sections 334.400 to 334.430 nor be exempt from the penalties
16 provided pursuant to sections 334.400 to 334.430 for failure to register.

17 3. If a person licensed, certified, or registered by the board does not renew such
18 license, certification, or registration for two consecutive renewal periods, such license,
19 certification, or registration shall be deemed void.

20 **4. An application for registration pursuant to sections 334.400 to 334.430 shall be**
21 **accompanied with a registration fee to be payable to the director of revenue. If the**
22 **application is filed and the fee paid after the registration renewal date, a delinquent fee**
23 **shall be paid. The delinquent fee may be waived by the board based on extenuating**
24 **circumstances as defined by board rule.**

334.418. 1. Except as provided in subsection 2 of this section, no person shall
2 **practice as an anesthesiologist assistant unless the person holds a current, valid certificate**
3 **of registration issued pursuant to sections 334.400 to 334.430 to practice as an**
4 **anesthesiologist assistant.**

5 **2. The provision of subsection 1 of this section shall not apply to the following:**

6 **(1) A person participating in a training program leading toward certification by**
7 **the National Commission for Certification of Anesthesiologist Assistants, as long as the**
8 **person is supervised by an anesthesiologist;**

9 **(2) An individual participating in a hospital residency program in preparation to**
10 **practice as an anesthesiologist; and**

11 **(3) Any person who is otherwise authorized by subsection 2 of section 334.428 to**
12 **perform any of the activities that an anesthesiologist assistant is authorized to perform.**

334.420. The board shall not renew any certificate of registration unless the
2 **anesthesiologist assistant has provided satisfactory evidence that the board's minimum**
3 **requirements for continuing education have been met. At the discretion of the board,**
4 **compliance with the provision of this section may be waived for an anesthesiologist**
5 **assistant that has discontinued the practice of an anesthesiologist assistant due to**
6 **retirement.**

334.422. 1. All fees payable pursuant to the provisions of sections 334.400 to
2 **334.430 shall be collected by the division of professional registration, which shall transmit**
3 **them to the department of revenue for deposit in the state treasury to the credit of the**
4 **board of registration for the healing arts fund.**

5 **2. Upon appropriation by the general assembly, the money in the fund shall be used**
6 **to administer the provisions of sections 334.400 to 334.430.**

334.424. 1. An anesthesiologist assistant shall practice only under the direct
2 **supervision of an anesthesiologist who is physically present or immediately available.**

3 **2. Each anesthesiologist who agrees to act as the supervising anesthesiologist of an**
4 **anesthesiologist assistant shall adopt a written practice protocol that is consistent with**
5 **sections 334.400 to 334.430 and delineates the services that the anesthesiologist assistant**
6 **is authorized to provide and the manner in which the anesthesiologist will supervise the**
7 **anesthesiologist assistant. The provisions of the protocol shall be based on relevant quality**

8 assurance standards, including regular review by the supervising anesthesiologist of the
9 medical records of the patients cared for by the anesthesiologist assistant.

10 3. The supervising anesthesiologist shall oversee the anesthesiologist assistant in
11 accordance with the terms of the protocol and any rules and regulations as defined by the
12 board for the supervision of an anesthesiologist assistant. The board may randomly audit
13 or inspect any written practice protocol under which an anesthesiologist assistant works.

334.426. Notwithstanding the provisions of sections 334.400 to 334.430, or the rules
2 of the Missouri state board of registration for the healing arts, the governing body of every
3 hospital shall have full authority to limit the functions and activities that an
4 anesthesiologist assistant performs in such hospital.

334.428. 1. No person shall put forth to the public any title or description that
2 includes the words "licensed anesthesiologist assistant" as defined in section 334.404 unless
3 the person is duly licensed pursuant to the provisions of sections 334.400 to 334.430.

4 2. Nothing in sections 334.400 to 334.430 shall be construed as prohibiting any
5 individual regardless of whether the individual is licensed pursuant to sections 334.400 to
6 334.430, from providing the services of anesthesiologist assistant, so long as those services
7 are lawfully performed pursuant to the individual's scope of practice as authorized by law,
8 regulation, and hospital or medical staff policies or credentialing standards.

9 3. Notwithstanding the specified penalty in section 334.414, any person found guilty
10 of violating any provision of subsections 1 and 2 of this section shall be guilty of an
11 infraction and upon conviction thereof shall be punished as provided by law. For purposes
12 of this subsection, the maximum fine for a violation of this section shall be two hundred
13 dollars.

334.430. 1. There is hereby established an "Advisory Commission for
2 Anesthesiologist Assistants" which shall guide, advise and make recommendations to the
3 board. The commission shall be responsible for the ongoing examination of the scope of
4 practice and promoting the continuing role of anesthesiologist assistants in the delivery of
5 health care services. The commission shall assist the board in carrying out the provisions
6 of sections 334.400 to 334.430.

7 2. The commission shall be appointed no later than July 1, 2005. The commission
8 shall be composed of five members, to be appointed by the governor, with the advice and
9 consent of the senate, as follows:

- 10 (1) One member of the board;
11 (2) One licensed anesthesiologist assistant;
12 (3) Two licensed, board-certified anesthesiologists; and
13 (4) One lay member.

14 **3. Each licensed anesthesiologist assistant member shall be a citizen of the United**
15 **States and a resident of this state, and shall be licensed as an anesthesiologist assistant by**
16 **this state. Each physician member shall be a United States citizen, a resident of this state**
17 **and have an active license to practice medicine in this state. The lay member shall be a**
18 **United States citizen and a resident of this state.**

19 **4. The licensed anesthesiologist assistant member shall be appointed to serve a**
20 **three-year term. The anesthesiologist members and lay member shall each be appointed**
21 **to serve three-year terms, except at the time the commission is created, when one**
22 **anesthesiologist member will be appointed for a first term of two years while the second**
23 **anesthesiologist member will be appointed to a three year term. This will ensure that at**
24 **least one anesthesiologist member has at least one years experience as a member of the**
25 **commission. Neither the anesthesiologist assistant member nor the physician members**
26 **shall be appointed for more than two consecutive three-year terms.**

27 **5. The president of the Missouri Society of Anesthesiologists or its successor in**
28 **office at the time shall, at least ninety days prior to the expiration of a term of an**
29 **anesthesiologist assistant member or an anesthesiologist member of the commission or as**
30 **soon as feasible after such a vacancy on the commission otherwise occurs, submit to the**
31 **director of the division of professional registration a list, not to exceed five individuals per**
32 **vacancy, of qualified and willing anesthesiologists or anesthesiologist assistants,**
33 **respectively, to fill the vacancy in question, with the request and recommendation that the**
34 **governor appoint one of the persons so listed. With the list so submitted, the president of**
35 **the Missouri Society of Anesthesiologists shall include in a letter of transmittal a**
36 **description of the method by which the names were chosen by that association.**

37 **6. Until such time as eligible anesthesiologist assistant candidates are identified, the**
38 **anesthesiologist assistant seat may remain vacant or may be filled by a qualified**
39 **anesthesiologist candidate, at the governor's discretion with the advice and consent of the**
40 **senate. This member may serve no more than two consecutive three-year terms or until**
41 **an eligible anesthesiologist assistant candidate, selected by the governor with the advice**
42 **and consent of the senate, from a list provided as outlined above is appointed.**

43 **7. Notwithstanding any other provision of law to the contrary, any appointed**
44 **member of the commission shall receive as compensation an amount established by the**
45 **director of the division of professional registration not to exceed seventy dollars per day**
46 **for commission business plus actual and necessary expenses. The director of the division**
47 **of professional registration shall establish by rule the guidelines for payment. The board**
48 **shall provide all staff for the commission.**

49 **8. The commission shall hold an open annual meeting at which time it shall elect**

50 **from its membership a chairman and secretary. The commission may hold such additional**
51 **meetings as may be required in the performance of its duties, provided that notice of every**
52 **meeting shall be given to each member at least ten days prior to the date of the meeting.**
53 **A quorum of the commission shall consist of a majority of its members.**

54 **9. No licensing activity or other statutory requirements shall become effective until**
55 **expenditures or personnel are specifically appropriated for the purpose of conducting the**
56 **business as required to administer the provisions of sections 334.400 to 334.430 and the**
57 **initial rules filed have become effective.**

337.030. 1. Each psychologist licensed pursuant to the provisions of sections 337.010
2 to 337.090, who has not filed with the committee a verified statement that the psychologist has
3 retired from or terminated the psychologist's practice of psychology in this state, shall register
4 with the division on or before the registration renewal date. The division shall require a
5 registration fee which shall be submitted together with proof of compliance with the continuing
6 education requirement as provided in section 337.050 and any other information required for
7 such registration. Upon receipt of the required material and of the registration fee, the division
8 shall issue a renewal certificate of registration. The division shall, when issuing an initial license
9 to an applicant who has met all of the qualifications of sections 337.010 to 337.093 and has been
10 approved for licensure by the committee shall grant the applicant, without payment of any further
11 fee, a certificate of registration valid until the next registration renewal date.

12 2. The division shall mail a renewal notice to the last known address of each licensee
13 prior to the registration renewal date. Failure to provide the division with the proof of
14 compliance with the continuing education requirement and other information required for
15 registration, or to pay the registration fee after such notice shall effect a revocation of the license
16 after a period of sixty days from the registration renewal date. The license shall be restored if,
17 within two years of the registration renewal date, the applicant provides written application and
18 the payment of the registration fee and a delinquency fee and proof of compliance with the
19 requirements for continuing education as provided in section 337.050.

20 3. A new certificate to replace any certificate lost, destroyed or mutilated may be issued
21 subject to the rules of the committee, upon payment of a reasonable fee.

22 4. The committee shall set the amount of the fees authorized by sections 337.010 to
23 337.093 and required by rules and regulations promulgated pursuant to section 536.021, RSMo.
24 The fees shall be set at a level to produce revenue which shall not substantially exceed the cost
25 and expense of administering sections 337.010 to 337.090.

26 **5. The committee may issue an inactive license to any licensee who makes written**
27 **application for such license on a form provided by the board and remits the fee for an**
28 **inactive license established by the committee. An inactive license shall be issued only to a**

29 **person who has previously been issued a license to practice psychology in the state of**
30 **Missouri, who is no longer regularly engaged in such practice, and who does not hold**
31 **himself or herself out to the public as being professionally engaged in such practice in the**
32 **state of Missouri. Each inactive license shall be subject to all provisions of this chapter,**
33 **except as otherwise specifically provided. Each inactive license may be renewed by the**
34 **committee subject to all provisions of this section and all other provisions of this chapter.**
35 **The inactive licensee shall not be required to submit evidence of completion of continuing**
36 **education as required by this chapter. An inactive licensee may apply for a license to**
37 **regularly engage in the practice of psychology upon filing a written application on a form**
38 **provided by the committee, submitting the reactivation fee established by the committee**
39 **and submitting proof of current competency as established by the committee.**

339.010. 1. A "real estate broker" is any person, partnership, association, or corporation,
2 foreign or domestic who, for another, and for a compensation or valuable consideration, [as a
3 whole or partial vocation,] does, or attempts to do, any or all of the following:
4 (1) Sells, exchanges, purchases, rents, or leases real estate;
5 (2) Offers to sell, exchange, purchase, rent or lease real estate;
6 (3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or
7 leasing of real estate;
8 (4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;
9 (5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or
10 improvements thereon;
11 (6) Advertises or holds himself or herself out as a licensed real estate broker while
12 engaged in the business of buying, selling, exchanging, renting, or leasing real estate;
13 (7) Assists or directs in the procuring of prospects, calculated to result in the sale,
14 exchange, leasing or rental of real estate;
15 (8) Assists or directs in the negotiation of any transaction calculated or intended to result
16 in the sale, exchange, leasing or rental of real estate;
17 (9) Engages in the business of charging to an unlicensed person an advance fee in
18 connection with any contract whereby the real estate broker undertakes to promote the sale of
19 that person's real estate through its listing in a publication issued for such purpose intended to
20 be circulated to the general public;
21 (10) Performs any of the foregoing acts as an employee of, or on behalf of, the owner of
22 real estate, or interest therein, or improvements affixed thereon, for compensation.
23 2. A "real estate salesperson" is any person, who for a compensation or valuable
24 consideration becomes associated, either as an independent contractor or employee, either
25 directly or indirectly, with a real estate broker to do any of the things above mentioned[, as a

26 whole or partial vocation]. The provisions of sections 339.010 to 339.180 **and sections 339.710**
27 **to 339.860** shall not be construed to deny a real estate salesperson who is compensated solely
28 by commission the right to be associated with a broker as an independent contractor.

29 3. The term "commission" as used in sections 339.010 to 339.180 **and sections 339.710**
30 **to 339.860** means the Missouri real estate commission.

31 4. "Real estate" for the purposes of sections 339.010 to 339.180 **and sections 339.710**
32 **to 339.860** shall mean, and include, leaseholds, as well as any other interest or estate in land,
33 whether corporeal, incorporeal, freehold or nonfreehold, and [whether] the real estate is situated
34 in this state [or elsewhere].

35 5. The provisions of sections 339.010 to 339.180 **and sections 339.710 to 339.860** shall
36 not apply to:

37 (1) Any person, partnership, **association**, or corporation who as owner [or], lessor, **or**
38 **lessee** shall perform any of the acts described in subsection 1 of this section with reference to
39 property owned or leased by them, or to the regular employees thereof, provided such owner [or],
40 lessor, **or lessee** is not engaged in the real estate business [as a vocation];

41 (2) Any licensed attorney-at-law;

42 (3) An auctioneer employed by the owner of the property;

43 (4) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or
44 guardian or while acting under a court order or under the authority of a will, trust instrument or
45 deed of trust or as a witness in any judicial proceeding or other proceeding conducted by the state
46 or any governmental subdivision or agency;

47 (5) Any person employed or retained to manage real property by, for, or on behalf of, the
48 agent or the owner, of any real estate shall be exempt from holding a license, if the person is
49 limited to one or more of the following activities:

50 (a) Delivery of a lease application, a lease, or any amendment thereof, to any person;

51 (b) Receiving a lease application, lease, or amendment thereof, a security deposit, rental
52 payment, or any related payment, for delivery to, and made payable to, a broker or owner;

53 (c) Showing a rental unit to any person, as long as the employee is acting under the direct
54 instructions of the broker or owner, including the execution of leases or rental agreements;

55 (d) Conveying information prepared by a broker or owner about a rental unit, a lease, an
56 application for lease, or the status of a security deposit, or the payment of rent, by any person;

57 (e) Assisting in the performance of brokers' or owners' functions, administrative, clerical
58 or maintenance tasks;

59 (f) If the person described in this section is employed or retained by, for, or on behalf of
60 a real estate broker, the real estate broker shall be subject to discipline under this chapter for any
61 conduct of the person that violates this chapter or the regulations promulgated thereunder;

62 (6) Any officer or employee of a federal agency or the state government or any political
63 subdivision thereof performing official duties;

64 (7) Railroads and other public utilities regulated by the state of Missouri, or their
65 subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless
66 performance of any of the acts described in subsection 1 of this section is in connection with the
67 sale, purchase, lease or other disposition of real estate or investment therein unrelated to the
68 principal business activity of such railroad or other public utility or affiliated or subsidiary
69 corporation thereof;

70 (8) Any bank, trust company, savings and loan association, credit union, insurance
71 company, mortgage banker, or farm loan association organized under the laws of this state or of
72 the United States when engaged in the transaction of business on its own behalf and not for
73 others;

74 (9) Any newspaper [or], magazine [or], periodical [of general circulation], **or Internet**
75 **site** whereby the advertising of real estate is incidental to [the] **its** operation [of that publication]
76 or to any form of communications regulated or licensed by the Federal Communications
77 Commission or any successor agency or commission;

78 (10) Any developer selling Missouri land owned by the developer [if such developer has
79 on file with the commission a certified copy of a currently effective statement of record on file
80 with the Office of Interstate Land Sales pursuant to Sections 1704 through 1706 of Title 15 of
81 the United States Code or a current statement from the Office of Interstate Land Sales of the
82 United States Department of Housing and Urban Development approving the documentation
83 (together with a copy of such documentation) submitted to that office with respect to real estate
84 falling within the scope of subsection 1702(a)(10) of Title 15 of the United States Code];

85 (11) Any employee acting on behalf of a nonprofit community, or regional economic
86 development association, agency or corporation which has as its principal purpose the general
87 promotion and economic advancement of the community at large, provided that such entity:

88 (a) Does not offer such property for sale, lease, rental or exchange on behalf of another
89 person or entity;

90 (b) Does not list or offer or agree to list such property for sale, lease, rental or exchange;
91 or

92 (c) Receives no fee, commission or compensation, either monetary or in kind, that is
93 directly related to sale or disposal of such properties. An economic developer's normal annual
94 compensation shall be excluded from consideration as commission or compensation related to
95 sale or disposal of such properties; or

96 (12) Any neighborhood association, as that term is defined in section 441.500, RSMo,
97 that without compensation, either monetary or in kind, provides to prospective purchasers or

98 lessors of property the asking price, location, and contact information regarding properties in and
99 near the association's neighborhood, including any publication of such information in a
100 newsletter, [web] **Internet** site, or other medium.

339.020. It shall be unlawful for any person, partnership, association, or corporation,
2 foreign or domestic, to act as a real estate broker or real estate salesperson, or to advertise or
3 assume to act as such without a license first procured from the commission.

339.030. A corporation, partnership, or association shall be granted a license when
2 individual licenses have been issued to every member, partner or officer of such partnership,
3 association, or corporation who actively participates in its brokerage business and to every
4 person who acts as a salesperson for such partnership, association, or corporation and when the
5 required fee is paid.

339.040. 1. Licenses shall be granted only to persons who present, and corporations,
2 associations, or partnerships whose officers, associates, or partners present, satisfactory proof
3 to the commission that they:

4 (1) Are persons of good moral character; and

5 (2) Bear a good reputation for honesty, integrity, and fair dealing; and

6 (3) Are competent to transact the business of a broker or salesperson in such a manner
7 as to safeguard the interest of the public.

8 2. In order to determine an applicant's qualifications to receive a license under sections
9 339.010 to 339.180 **and sections 339.710 to 339.860**, the commission shall hold oral or written
10 examinations at such times and places as the commission may determine.

11 3. Each applicant for a broker or salesperson license shall be at least eighteen years of
12 age and shall pay the broker examination fee or the salesperson examination fee.

13 4. Each applicant for a broker license shall be required to have satisfactorily completed
14 the salesperson license examination prescribed by the commission. For the purposes of this
15 section only, the commission may permit a person who is not associated with a licensed broker
16 to take the salesperson examination.

17 5. Each application for a broker license shall include a certificate from the applicant's
18 broker or brokers that the applicant has been actively engaged in the real estate business as a
19 licensed salesperson for at least one year immediately preceding the date of application, or, in
20 lieu thereof, shall include a certificate from a school accredited by the commission under the
21 provisions of section 339.045 that the applicant has, within six months prior to the date of
22 application, successfully completed the prescribed broker curriculum or broker correspondence
23 course offered by such school, except that the commission may waive all or part of the
24 educational requirements set forth in this subsection when an applicant presents proof of other
25 educational background or experience acceptable to the commission.

26 6. Each application for a salesperson license shall include a certificate from a school
27 accredited by the commission under the provisions of section 339.045 that the applicant has,
28 within six months prior to the date of application, successfully completed the prescribed
29 salesperson curriculum or salesperson correspondence course offered by such school, except that
30 the commission may waive all or part of the educational requirements set forth in this subsection
31 when an applicant presents proof of other educational background or experience acceptable to
32 the commission.

33 7. [The commission shall require] **The commission may issue a temporary work**
34 **permit pending final review and printing of the license to an applicant who appears to have**
35 **satisfied the requirements for licenses. The commission may, at its discretion, withdraw**
36 **the work permit at any time.**

37 8. Every active broker, salesperson, officer [or], partner [to present upon license
38 renewal], **or associate shall provide upon request to the commission** evidence that during the
39 two years preceding he **or she** has completed twelve hours of real estate instruction in courses
40 approved by the commission. The commission may, by rule and regulation, provide for
41 individual waiver of this requirement.

42 [8.] 9. Each entity that provides continuing education required under the provisions of
43 subsection [7] **8** of this section may make available [videotapes and audiotapes of] instruction
44 courses that the entity conducts **through means of distance delivery**. The commission shall by
45 rule set standards for [the production of] such [taped] courses[, which may include the
46 requirement that individuals purchasing such tapes also purchase an accompanying written study
47 document. The commission shall authorize individuals required to complete instruction under
48 the provisions of this subsection to fulfill such continuing education requirements by utilizing
49 such videotape and audiotape courses]. The commission may by regulation require the
50 individual completing such [videotape or audiotape] **distance delivered** course to complete an
51 examination on the contents of the course. Such examination shall be designed to ensure that
52 the licensee displays adequate knowledge of the subject matter of the course, and shall be
53 designed by the entity producing the [taped] course and approved by the commission.

54 [9.] 10. In the event of the death or incapacity of a licensed broker, or of one or more of
55 the licensed partners [or], officers, **or associates** of a real estate partnership [or], corporation, **or**
56 **association** whereby the affairs of the broker, partnership, or corporation cannot be carried on,
57 the commission may issue, without examination or fee, to the legal representative or
58 representatives of the deceased or incapacitated individual, or to another individual approved by
59 the commission, a temporary broker license which shall authorize such individual to continue
60 for a period to be designated by the commission to transact business for the sole purpose of
61 winding up the affairs of the broker, partnership or corporation under the supervision of the

62 commission.

339.060. 1. The commission shall set the amount of the fees which sections 339.010 to
2 339.180 **and sections 339.710 to 339.860** authorize and require by rules and regulations
3 promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce
4 revenue which shall not substantially exceed the cost and expense of administering sections
5 339.010 to 339.180 **and sections 339.710 to 339.860**.

6 2. Every license granted under sections 339.010 to 339.180 **and sections 339.710 to**
7 **339.860** shall be renewed each licensing period and the commission shall issue a new license
8 upon receipt of the [written] **properly completed** application of the applicant and the required
9 renewal fee.

339.100. 1. The commission may, upon its own motion, and shall upon **receipt of**
2 **a** written complaint filed by any person, investigate any [business transaction] **real estate-**
3 **related activity** of a [person, partnership or corporation] **licensee** licensed under sections
4 339.010 to 339.180 **and sections 339.710 to 339.860 or an individual or entity acting as or**
5 **representing themselves as a real estate licensee**. In conducting such investigation, **if the**
6 **questioned activity or written complaint involves an affiliated licensee, the commission may**
7 **forward a copy of the information received to the affiliated licensee's designated broker.**
8 The commission shall have the power to hold an investigatory hearing to determine whether
9 there is a probability [that the licensee has performed or attempted to perform any act or practice
10 declared unlawful pursuant to] **of a violation of** sections 339.010 to 339.180 **and sections**
11 **339.710 to 339.860**. [In conducting such a hearing,] The commission shall have the power to
12 issue a subpoena to compel the production of records and papers bearing on the complaint. The
13 commission shall have the power to issue a subpoena and to compel any person in this state to
14 come before the commission to offer testimony or any material specified in the subpoena.
15 Subpoenas and subpoenas duces tecum issued pursuant to this section shall be served in the same
16 manner as subpoenas in a criminal case. The fees and mileage of witnesses shall be the same as
17 that allowed in the circuit court in civil cases.

18 2. The commission may cause a complaint to be filed with the administrative hearing
19 commission as provided by [law when the commission believes there is a probability that a
20 licensee has performed or attempted to perform any] **the provisions of chapter 621, RSMo,**
21 **against any person or entity licensed under this chapter or any licensee who has failed to**
22 **renew or has surrendered his or her individual or entity license for any one or any**
23 **combination** of the following acts:

24 (1) Failure to maintain and deposit in a special account, separate and apart from his **or**
25 **her** personal or other business accounts, all moneys belonging to others entrusted to him **or her**
26 while acting as a real estate broker[, or as escrow agent,] or as the temporary custodian of the

27 funds of others, until the transaction involved is consummated or terminated, unless all parties
28 having an interest in the funds have agreed otherwise in writing;

29 (2) Making substantial misrepresentations or false promises or suppression, concealment
30 or omission of material facts in the conduct of his **or her** business or pursuing a flagrant and
31 continued course of misrepresentation through agents, salespersons, advertising or otherwise in
32 any transaction;

33 (3) Failing within a reasonable time to account for or to remit any moneys, valuable
34 documents or other property, coming into his **or her** possession, which belongs to others;

35 (4) Representing to any lender, guaranteeing agency, or any other interested party, either
36 verbally or through the preparation of false documents, an amount in excess of the true and
37 actual sale price of the real estate or terms differing from those actually agreed upon;

38 (5) Failure to **timely** deliver[, immediately at the time of signing,] a duplicate original
39 of any and all instruments to any party or parties executing the same where the instruments have
40 been prepared by the licensee or under his **or her** supervision or are within his **or her** control,
41 including, but not limited to, the instruments relating to the employment of the licensee or to any
42 matter pertaining to the consummation of a lease, listing agreement or the purchase, sale,
43 exchange or lease of property, or any type of real estate transaction in which he **or she** may
44 participate as a licensee;

45 (6) Acting for more than one party in a transaction without the knowledge of all parties
46 for whom he **or she** acts, or accepting a commission or valuable consideration for services from
47 more than one party in a real estate transaction without the knowledge of all parties to the
48 transaction;

49 (7) Paying a commission or valuable consideration to any person for acts or services
50 performed in violation of sections 339.010 to 339.180 **and sections 339.710 to 339.860**;

51 (8) Guaranteeing or having authorized or permitted any licensee to guarantee future
52 profits which may result from the resale of real property;

53 (9) Having been finally adjudicated and been found guilty of the violation of any state
54 or federal statute which governs the sale or rental of real property or the conduct of the real estate
55 business as defined in subsection 1 of section 339.010;

56 (10) Obtaining a certificate or registration of authority, permit or license for himself **or**
57 **herself** or anyone else by false or fraudulent representation, fraud or deceit;

58 (11) Representing a real estate broker other than the broker with whom associated
59 without the express [knowledge and] **written** consent of [that] **the** broker[, or] **with whom**
60 **associated**;

61 (12) Accepting a commission or valuable consideration for the performance of any of
62 the acts referred to in section 339.010 from any person except the broker with whom associated

63 **at the time the commission or valuable consideration was earned;**

64 [(12)] **(13)** Using prizes, money, gifts or other valuable consideration as inducement to
65 secure customers **or clients** to purchase, lease, sell or list property when the awarding of such
66 prizes, money, gifts or other valuable consideration is conditioned upon the purchase, lease, sale
67 or listing; or soliciting, selling or offering for sale real property by offering free lots, or
68 conducting lotteries or contests, or offering prizes for the purpose of influencing a purchaser or
69 prospective purchaser of real property;

70 [(13)] **(14)** Placing a sign on or advertising any property offering it for sale or rent
71 without the **written** consent of the owner or his **or her** duly authorized agent;

72 [(14)] **(15)** Violation of, or attempting to violate, directly or indirectly, or assisting or
73 enabling any person to violate, any provision of sections 339.010 to 339.180 **and sections**
74 **339.710 to 339.860**, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 **and**
75 **sections 339.710 to 339.860;**

76 [(15)] **(16)** Committing any act which would otherwise be grounds for the commission
77 to refuse to issue a license under section 339.040;

78 [(16)] **(17)** Failure to [submit] **timely inform seller of** all written [bona fide] offers [to
79 a seller when such offers are received prior to the seller accepting an offer in writing and until
80 the licensee has knowledge of such acceptance] **unless otherwise instructed in writing by the**
81 **seller;**

82 [(17)] **(18)** Been finally adjudicated and found guilty, or entered a plea of guilty or nolo
83 contendere, in a criminal prosecution under the laws of this state or any other state or of the
84 United States, for any offense reasonably related to the qualifications, functions or duties of any
85 profession licensed or regulated under this chapter, for any offense an essential element of which
86 is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether
87 or not sentence is imposed;

88 [(18)] **(19)** Any other conduct which constitutes untrustworthy, improper or fraudulent
89 business dealings, [or] demonstrates bad faith or [gross] incompetence, **misconduct, or gross**
90 **negligence;**

91 [(19)] **(20)** Disciplinary action against the holder of a license or other right to practice
92 any profession regulated under sections 339.010 to 339.180 **and sections 339.710 to 339.860**
93 granted by another state, territory, federal agency, or country upon grounds for which revocation,
94 suspension, or probation is authorized in this state;

95 [(20)] **(21)** Been found by a court of competent jurisdiction of having used any controlled
96 substance, as defined in chapter 195, RSMo, to the extent that such use impairs a person's ability
97 to perform the work of any profession licensed or regulated by sections 339.010 to 339.180 **and**
98 **sections 339.710 to 339.860;**

99 [(21)] **(22)** Been finally adjudged insane or incompetent by a court of competent
100 jurisdiction;

101 [(22)] **(23)** Assisting or enabling any person to practice or offer to practice any
102 profession licensed or regulated under sections 339.010 to 339.180 **and sections 339.710 to**
103 **339.860** who is not registered and currently eligible to practice under sections 339.010 to
104 339.180 **and sections 339.710 to 339.860**;

105 [(23)] **(24)** Use of any advertisement or solicitation which is knowingly false, misleading
106 or deceptive to the general public or persons to whom the advertisement or solicitation is
107 primarily directed.

108 3. After the filing of such complaint, the proceedings will be conducted in accordance
109 with the provisions of law relating to the administrative hearing commission. A finding of the
110 administrative hearing commissioner that the licensee has performed or attempted to perform one
111 or more of the foregoing acts shall be grounds for the suspension or revocation of his license by
112 the commission, or the placing of the licensee on probation on such terms and conditions as the
113 real estate commission shall deem appropriate.

114 4. The commission may prepare a digest of the decisions of the administrative hearing
115 commission which concern complaints against licensed brokers or salespersons and cause such
116 digests to be mailed to all licensees periodically. Such digests may also contain reports as to new
117 or changed rules adopted by the commission and other information of significance to licensees.

339.105. 1. Each broker **who holds funds belonging to another** shall maintain **such**
2 **funds in** a separate bank [checking] account in a financial institution[, either a bank, savings and
3 loan association or a credit union in this state, or in an adjoining state with written permission
4 of the commission,] which shall be designated an escrow or trust account [in which all money
5 not his own coming into his possession, including]. **This requirement includes** funds in which
6 he **or she** may have some future interest or claim[.]. **Such funds** shall be deposited promptly
7 unless all parties having an interest in the funds have agreed otherwise in writing. No broker
8 shall commingle his **or her** personal funds or other funds in this account with the exception that
9 a broker may deposit and keep a sum not to exceed [five hundred] **one thousand** dollars in the
10 account from his **or her** personal funds, which sum shall be specifically identified and deposited
11 to cover service charges related to the account. [The commission may, by written waiver issued
12 for good cause as defined by rule and regulation, relieve a broker from the obligation to maintain
13 a separate escrow or trust account.]

14 2. [Before issuance of a broker license,] Each broker shall notify the commission of **his**
15 **or her intent not to maintain an escrow account, or** the name of the financial institution in
16 which each escrow or trust account is maintained, the name and number of each such account,
17 and shall file written authorization directed to each financial institution to allow the commission

18 or its authorized representative to examine each such account; such notification and authorization
19 shall be submitted on forms provided therefor by the commission [but shall not be required in
20 any case where maintenance of an escrow or trust account has been waived pursuant to
21 subsection 1 of this section]. A broker shall notify the commission within [fifteen] **ten business**
22 **days** of any change of **his or her intent to maintain an escrow account, the** financial institution
23 [or], account numbers, **or change in account status.**

24 3. In conjunction with each escrow or trust account a broker shall maintain [at his usual
25 place of business,] books, records, contracts and other necessary documents so that the adequacy
26 of said account may be determined at any time. The account and other records shall be [open]
27 **provided** to [inspection by] the commission and its duly authorized agents **for inspection** at all
28 times during regular business hours at the broker's usual place of business.

29 4. **Whenever the ownership of any escrow moneys received by a broker pursuant**
30 **to this section is in dispute by the parties to a real estate sales transaction, the broker shall**
31 **deposit the moneys with the state treasurer within three hundred sixty-five days of the date**
32 **of the initial projected closing date, such moneys to be held in trust by the state treasurer**
33 **until the dispute is mediated, arbitrated, litigated, or otherwise resolved by the parties.**
34 **The parties to a real estate sales transaction may agree in writing to extend the time period**
35 **by which the moneys must be deposited with the state treasurer.**

36 5. A broker shall not be entitled to any [part of the earnest] money or other money paid
37 to him **or her** in connection with any real estate **sales** transaction as part or all of his **or her**
38 commission or fee until the transaction has been consummated or terminated, unless agreed in
39 writing by all parties to the transaction.

40 [5.] 6. When, through investigations or otherwise, the commission has reasonable cause
41 to believe that a licensee has acted, is acting or is about to act in violation of this section, the
42 commission may, through the attorney general or any [of his] assistants designated by [him] **the**
43 **attorney general**, proceed in the name of the commission to institute suit to enjoin any act or
44 acts in violation of this section.

45 [6.] 7. Any such suit shall be commenced in either the county in which the defendant
46 resides or in the county in which the defendant has acted, is acting or is about to act in violation
47 of this section.

48 [7.] 8. In such proceeding, the court shall have power to issue such temporary restraining
49 or injunction orders, without bond, which are necessary to protect the public interest. Any action
50 brought under this section shall be in addition to and not in lieu of any other provisions of this
51 chapter. In such action, the commission or the state need not allege or prove that there is no
52 adequate remedy at law or that any individual has suffered any economic injury as a result of the
53 activity sought to be enjoined.

339.120. 1. There is hereby created the "Missouri Real Estate Commission", to consist of seven persons, citizens of the United States and residents of this state for at least one year prior to their appointment, for the purpose of carrying out and enforcing the provisions of sections 339.010 to 339.180 **and sections 339.710 to 339.860**. The commission shall be appointed by the governor with the advice and consent of the senate. All members, except one voting public member, of the commission must have had at least ten years' experience as a real estate broker prior to their appointment. The terms of the members of the commission shall be for five years, and until their successors are appointed and qualified. Members to fill vacancies shall be appointed by the governor for the unexpired term. The president of the Missouri Association of Realtors in office at the time shall, at least ninety days prior to the expiration of the term of the board member, other than the public member, or as soon as feasible after the vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five Realtors qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Association of Realtors shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association. The commission shall organize annually by selecting from its members a chairman. The commission may do all things necessary and convenient for carrying into effect the provisions of sections 339.010 to 339.180 **and sections 339.710 to 339.860**, and may promulgate necessary rules compatible with the provisions of sections 339.010 to 339.180 **and sections 339.710 to 339.860**. Each member of the commission shall receive as compensation an amount set by the commission not to exceed [fifty] **seventy-five** dollars for each day devoted to the affairs of the commission, and shall be entitled to reimbursement of his or her expenses necessarily incurred in the discharge of his or her official duties. The governor may remove any commissioner for cause.

2. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to sections 339.010 to 339.180 **and sections 339.710 to 339.860** or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by sections 339.010 to 339.180 **and sections 339.710 to 339.860**, or an activity or organization directly related to any profession licensed or regulated pursuant to sections 339.010 to 339.180 **and sections 339.710 to 339.860**. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements

37 or of the technical competence or technical judgment of a licensee or a candidate for licensure.

38 3. The commission shall employ such board personnel, as defined in subdivision (4) of
39 subsection 15 of section 620.010, RSMo, as it shall deem necessary to discharge the duties
40 imposed by the provisions of sections 339.010 to 339.180 **and sections 339.710 to 339.860**.

41 4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
42 is created under the authority delegated in sections 339.010 to 339.180 **and sections 339.710 to**
43 **339.860** shall become effective only if it complies with and is subject to all of the provisions of
44 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority
45 delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this
46 section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to
47 August 28, 1999, if it fully complied with all applicable provisions of law. This section and
48 chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly
49 pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul
50 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
51 proposed or adopted after August 28, 1999, shall be invalid and void.

 339.130. The commission may sue and be sued in its official name, and shall have a seal
2 which shall be affixed to [all licenses,] certified copies of records and papers on file, and to such
3 other instruments as the commission may direct, and all courts shall take judicial notice of such
4 seal. Copies of records and proceedings of the commission, and of all papers on file in its office,
5 certified under the said seal shall be received as evidence in all courts of record. The office of
6 the commission shall be at Jefferson City.

 339.150. 1. No real estate broker shall knowingly employ or engage any person to
2 perform any service to the broker for which licensure as a real estate broker or a real estate sales
3 person is required pursuant to sections 339.010 to 339.180 **and sections 339.710 to 339.860**,
4 unless such a person is a licensed real estate salesperson or a licensed real estate broker as
5 required by section 339.020, or a person regularly engaged in the real estate brokerage business
6 outside of the state of Missouri. Any such action shall be unlawful as provided by section
7 339.100 and shall be grounds for investigation, complaint, proceedings and discipline as
8 provided by section 339.100.

9 2. No real estate licensee shall pay any part of a fee, commission or other compensation
10 received by the licensee to any person for any service rendered by such person to the licensee in
11 buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate, unless
12 such a person is a licensed real estate salesperson regularly associated with such a broker, or a
13 licensed real estate broker, or a person regularly engaged in the real estate brokerage business
14 outside of the state of Missouri.

15 3. Notwithstanding the provisions of subsections 1 and 2 of this section, any real estate

16 broker who shall refuse to pay any person for services rendered by such person to the broker,
17 with the consent, knowledge and acquiescence of the broker that such person was not licensed
18 as required by section 339.020, in buying, selling, exchanging, leasing, renting or negotiating a
19 loan upon any real estate for which services a license is required, and who is employed or
20 engaged by such broker to perform such services, shall be liable to such person for the reasonable
21 value of the same or similar services rendered to the broker, regardless of whether or not the
22 person possesses or holds any particular license, permit or certification at the time the service
23 was performed. Any such person may bring a civil action for the reasonable value of his services
24 rendered to a broker notwithstanding the provisions of section 339.160.

339.160. No person, partnership, corporation, or association engaged within this state
2 in the business or acting in the capacity of a real estate broker or real estate salesperson shall
3 bring or maintain an action in any court in this state for the recovery of compensation for services
4 rendered in the buying, selling, exchanging, leasing, renting or negotiating a loan upon any real
5 estate without alleging and proving that such person, partnership, corporation, or association was
6 a licensed real estate broker or salesperson at the time when the alleged cause of action arose.

339.170. Any person or corporation knowingly violating any provision of sections
2 339.010 to 339.180 **and sections 339.710 to 339.860** shall be guilty of a class B misdemeanor.
3 Any officer or agent of a corporation, or member or agent of a partnership or association, who
4 shall knowingly and personally participate in or be an accessory to any violation of sections
5 339.010 to 339.180 **and sections 339.710 to 339.860**, shall be guilty of a class B misdemeanor.
6 This section shall not be construed to release any person from civil liability or criminal
7 prosecution under any other law of this state. The commission may cause complaint to be filed
8 for violation of section 339.020 in any court of competent jurisdiction, and perform such other
9 acts as may be necessary to enforce the provisions hereof.

339.180. 1. It shall be unlawful for any person **or entity** not licensed under this chapter
2 to perform any act for which a real estate [broker or salesperson] license is required. Upon
3 application by the [board] **commission**, and the necessary burden having been met, a court of
4 general jurisdiction may grant an injunction, restraining order or other order as may be
5 appropriate to enjoin a person **or entity** from:

6 (1) Offering to engage or engaging in the performance of any acts or practices for which
7 a [certificate of registration or authority,] permit or license is required by this chapter upon a
8 showing that such acts or practices were performed or offered to be performed without a
9 [certificate of registration or authority,] permit or license; or

10 (2) Engaging in any practice or business authorized by a [certificate of registration or
11 authority,] permit or license issued pursuant to this chapter upon a showing that the holder
12 presents a substantial probability of serious danger to the health, safety or welfare of any

13 [resident of this state or client or patient of the licensee] **person with, or who is considering**
14 **obtaining, a legal interest in real property in this state.**

15 2. Any such action shall be commenced either in the county in which such conduct
16 occurred or in the county in which the defendant resides.

17 3. Any action brought under this section shall be in addition to and not in lieu of any
18 penalty provided by this chapter and may be brought concurrently with other actions to enforce
19 this chapter.

339.710. For purposes of sections 339.710 to 339.860, the following terms mean:

2 (1) "Adverse material fact", a fact related to the [physical condition of the] property not
3 reasonably ascertainable or known to a party which negatively affects the value of the property.

4 Adverse material facts may include matters pertaining to:

- 5 (a) Environmental hazards affecting the property;
- 6 (b) Physical condition of the property which adversely affects the value of the property;
- 7 (c) Material defects in the property;
- 8 (d) Material defects in the title to the property;
- 9 (e) Material limitation of the party's ability to perform under the terms of the contract;

10 (2) "Affiliated licensee", any broker or salesperson who works under the supervision of
11 a designated broker;

12 (3) "Agent", a person or entity acting pursuant to the provisions of this chapter;

13 (4) "Broker disclosure form", the current form prescribed by the commission for
14 presentation to a seller, landlord, buyer or tenant who has not entered into a written agreement
15 for brokerage services;

16 (5) "Brokerage relationship", the relationship created between a designated broker, the
17 broker's affiliated licensees, and a client relating to the performance of services of a broker as
18 defined in section 339.010, and sections 339.710 to 339.860. If a designated broker makes an
19 appointment of an affiliated licensee or affiliated licensees pursuant to section 339.820, such
20 brokerage relationships are created between the appointed licensee or licensees and the client.
21 Nothing in this subdivision shall:

22 (a) Alleviate the designated broker from duties of supervision of the appointed licensee
23 or licensees; or

24 (b) Alter the designated broker's underlying contractual agreement with the client;

25 (6) "Client", a seller, landlord, buyer, or tenant who has entered into a brokerage
26 relationship with a licensee pursuant to sections 339.710 to 339.860;

27 (7) "Commercial real estate", any real estate other than real estate containing one to four
28 residential units, real estate on which no buildings or structures are located, or real estate
29 classified as agricultural and horticultural property for assessment purposes pursuant to section

30 137.016, RSMo. Commercial real estate does not include single family residential units
31 including condominiums, townhouses, or homes in a subdivision when that real estate is sold,
32 leased, or otherwise conveyed on a unit-by-unit basis even though the units may be part of a
33 larger building or parcel of real estate containing more than four units;

34 (8) "Commission", the Missouri real estate commission;

35 (9) "Confidential information", information obtained by the licensee from the client and
36 designated as confidential by the client, information made confidential by sections 339.710 to
37 339.860 or any other statute or regulation, or written instructions from the client unless the
38 information is made public or becomes public by the words or conduct of the client to whom the
39 information pertains or by a source other than the licensee;

40 (10) "Customer", an actual or potential seller, landlord, buyer, or tenant in a real estate
41 transaction in which a licensee is involved but who has not entered into a brokerage relationship
42 with [a] the licensee;

43 (11) "Designated agent", a licensee named by a designated broker as the limited agent
44 of a client as provided for in section 339.820;

45 (12) "Designated broker", any individual licensed as a broker who is operating pursuant
46 to the definition of "real estate broker" as defined in section 339.010, or any individual licensed
47 as a broker who is appointed by a partnership, association, limited liability corporation, or a
48 corporation engaged in the real estate brokerage business to be responsible for the acts of the
49 partnership, association, limited liability corporation, or corporation. Every real estate
50 partnership, association, or limited liability corporation, or corporation shall appoint a designated
51 broker;

52 (13) "Designated transaction broker", a licensee named by a designated broker or deemed
53 appointed by a designated broker as the transaction broker for a client pursuant to section
54 339.820;

55 (14) "Dual agency", a form of agency which may result when an agent licensee or
56 someone affiliated with the agent licensee represents another party to the same transaction;

57 (15) "Dual agent", a limited agent who, with the written consent of all parties to a
58 contemplated real estate transaction, has entered into an agency brokerage relationship, and not
59 a transaction brokerage relationship, with and therefore represents both the seller and buyer or
60 both the landlord and tenant;

61 (16) "Licensee", a real estate broker or salesperson as defined in section 339.010;

62 (17) "Limited agent", a licensee whose duties and obligations to a client are those set
63 forth in sections 339.730 to 339.750;

64 (18) "Ministerial acts", those acts that a licensee may perform for a person or entity that
65 are informative in nature and do not rise to the level which requires the creation of a brokerage

66 relationship. Examples of these acts include, but are not limited to:

67 (a) Responding to telephone inquiries by consumers as to the availability and pricing of
68 brokerage services;

69 (b) Responding to telephone inquiries from a person concerning the price or location of
70 property;

71 (c) Attending an open house and responding to questions about the property from a
72 consumer;

73 (d) Setting an appointment to view property;

74 (e) Responding to questions of consumers walking into a licensee's office concerning
75 brokerage services offered on particular properties;

76 (f) Accompanying an appraiser, inspector, contractor, or similar third party on a visit to
77 a property;

78 (g) Describing a property or the property's condition in response to a person's inquiry;

79 (h) Showing a customer through a property being sold by an owner on his or her own
80 behalf; or

81 (i) Referral to another broker or service provider;

82 (19) "Residential real estate", all real property improved by a structure that is used or
83 intended to be used primarily for residential living by human occupants and that contains not
84 more than four dwelling units or that contains single dwelling units owned as a condominium
85 or in a cooperative housing association, and vacant land classified as residential property. The
86 term "cooperative housing association" means an association, whether incorporated or
87 unincorporated, organized for the purpose of owning and operating residential real property in
88 Missouri, the shareholders or members of which, by reason of their ownership of a stock or
89 membership certificate, a proprietary lease, or other evidence of membership, are entitled to
90 occupy a dwelling unit pursuant to the terms of a proprietary lease or occupancy agreement;

91 (20) "Single agent", a licensee who has entered into a brokerage relationship with and
92 therefore represents only one party in a real estate transaction. A single agent may be one of the
93 following:

94 (a) "Buyer's agent", which shall mean a licensee who represents the buyer in a real estate
95 transaction;

96 (b) "Seller's agent", which shall mean a licensee who represents the seller in a real estate
97 transaction; and

98 (c) "Landlord's agent", which shall mean a licensee who represents a landlord in a leasing
99 transaction;

100 (d) "Tenant's agent", which shall mean a licensee who represents the tenant in a leasing
101 transaction;

(21) "Subagent", a designated broker, together with the broker's affiliated licensees, engaged by another designated broker, together with the broker's affiliated or appointed affiliated licensees, to act as a limited agent for a client, or a designated broker's unappointed affiliated licensees engaged by the designated broker, together with the broker's appointed affiliated licensees, to act as a limited agent for a client. A subagent owes the same obligations and responsibilities to the client pursuant to sections 339.730 to 339.740 as does the client's designated broker;

(22) "Transaction broker", any licensee acting pursuant to sections 339.710 to 339.860, who:

(a) Assists the parties to a transaction without an agency or fiduciary relationship to either party and is, therefore, neutral, serving neither as an advocate or advisor for either party to the transaction;

(b) Assists one or more parties to a transaction and who has not entered into a specific written agency agreement to represent one or more of the parties; or

(c) Assists another party to the same transaction either solely or through licensee affiliates.

Such licensee shall be deemed to be a transaction broker and not a dual agent, provided that, notice of assumption of transaction broker status is provided to the buyer and seller immediately upon such default to transaction broker status, to be confirmed in writing prior to execution of the contract.

339.760. [1.] Every designated broker **who has affiliated licensees** shall adopt a written policy which identifies and describes the relationships in which the designated broker and affiliated licensees may engage with any seller, landlord, buyer, or tenant as part of any real estate brokerage activities.

[2. A designated broker shall not be required to offer or engage in more than one of the brokerage relationships enumerated in section 339.720.]

339.780. 1. All written agreements for brokerage services on behalf of a seller, landlord, buyer, or tenant shall be entered into by the designated broker on behalf of that broker and affiliated licensees, except that the designated broker may authorize affiliated licensees in writing to enter into the written agreements on behalf of the designated broker.

2. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to establish a limited agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 339.730 and the terms of compensation and shall specify whether an offer of subagency may be made to any other

10 designated broker.

11 3. Before or while engaging in any acts enumerated in section 339.010, except
12 ministerial acts defined in section 339.710, a designated broker acting as a single agent for a
13 buyer or tenant shall enter into a written agency agreement with the buyer or tenant. The
14 agreement shall include a licensee's duties and responsibilities specified in section 339.740 and
15 the terms of compensation [and shall specify whether an offer of subagency may be made to any
16 other designated broker].

17 4. Before engaging in any of the activities enumerated in section 339.010, a designated
18 broker intending to act as a dual agent shall enter into a written agreement with the seller and
19 buyer or landlord and tenant permitting the designated broker to serve as a dual agent. The
20 agreement shall include a licensee's duties and responsibilities specified in section 339.750 and
21 the terms of compensation.

22 5. Before engaging in any of the activities enumerated in section 339.010, a designated
23 broker intending to act as a subagent shall enter into a written agreement with the designated
24 broker for the client. If a designated broker has made a unilateral offer of subagency, another
25 designated broker can enter into the subagency relationship by the act of disclosing to the
26 customer that he or she is a subagent of the client. If a designated broker has made an
27 appointment pursuant to section 339.820, an affiliated licensee that has been excluded by such
28 appointment may enter into the subagency relationship by the act of disclosing to the customer
29 that he or she is a subagent of the client.

30 6. A designated broker who intends to act as a transaction broker and who expects to
31 receive compensation from the party he or she assists shall enter into a written transaction
32 brokerage agreement with such party or parties contracting for the broker's service. The
33 transaction brokerage agreement shall include a licensee's duties and responsibilities specified
34 in section 339.755 and the terms of compensation.

35 7. Nothing contained in this section shall prohibit the public from entering into written
36 contracts with any broker which contain duties, obligations, or responsibilities which are in
37 addition to those specified in this section.

339.800. 1. In any real estate transaction, the designated broker's compensation may be
2 paid by the seller, the landlord, the buyer, the tenant, or a third party or by sharing the
3 compensation between designated brokers.

4 2. Payment of compensation by itself shall not establish an agency relationship or
5 transaction brokerage relationship between the party who paid the compensation and the
6 designated broker or any affiliated licensee.

7 3. A seller or landlord may agree that a designated broker may share with another
8 designated broker the compensation paid by the seller or landlord.

9 4. A buyer or tenant may agree that a designated broker may share with another
10 designated broker the compensation paid by the buyer or tenant.

11 5. A designated broker may be compensated by more than one party for services in a
12 transaction with the knowledge of all the parties at or before the time of entering into a written
13 contract to buy, sell, or lease.

14 **6. Nothing contained in this section shall relieve the licensee from the requirement**
15 **of obtaining a written agreement for brokerage services or other written agreement**
16 **addressing compensation.**

343.350. As used in sections 343.350 to 343.410, the following terms shall mean:

2 **(1) "Apprentice auctioneer", any person less than eighteen years of age who acts**
3 **as a bid caller under the direct supervision of a licensed auctioneer, or any person eighteen**
4 **years of age or older who chooses not to complete an accredited auction school, but works**
5 **a mandatory twelve auctions as a bid caller under the supervision of a licensed auctioneer**
6 **prior to receiving a state license;**

7 **(2) "Auction", the sale or lease of goods, real or personal, by means of exchange**
8 **between an auctioneer or apprentice auctioneer and prospective purchasers or lessees,**
9 **which consists of a series of invitations for offers made by the auctioneer or apprentice**
10 **auctioneer and offers by prospective purchasers or lessees for the purpose of obtaining an**
11 **acceptable offer for the sale or lease of goods via in-person exchange, mail,**
12 **telecommunications, or the Internet, but shall not include any transaction taking place in**
13 **an online marketplace;**

14 **(3) "Auctioneer", as used in section 150.380, RSMo, and sections 343.350 to 343.410**
15 **is a person who sells goods, merchandise, or property of any kind, at public or private**
16 **auction, for another person, and who receives any commission or compensation of any kind**
17 **for conducting such sale; but not including a person who conducts such a sale by or under**
18 **the jurisdiction of any court, or pursuant to any judicial judgment or order, or any sale of**
19 **real estate, and not including any owner of any goods, merchandise or property of any**
20 **kind, if such owner conducts the sale;**

21 **(4) "Board", the state board of auctioneers;**

22 **(5) "Goods", any chattels, merchandise, real or personal property, or commodities**
23 **of any form or type which may be lawfully kept or offered for sale;**

24 **(6) "Online marketplace", any website or similar online service that enables third**
25 **parties to auction or otherwise advertise, offer to sell, or offer to purchase goods or services**
26 **other than real property, but that does not examine, set the prices of, or take custody of the**
27 **goods or services offered for sale;**

28 **(7) "Subaccount", the auctioneers education, research, and recovery fund which**

29 is a subaccount of the state board of auctioneers fund established in section 343.401.

343.353. It is unlawful for any person in this state to engage in the occupation of
2 auctioneering unless such person has first obtained a license pursuant to sections 343.350
3 to 343.410. Any person who violates the provisions of this section is guilty of a class C
4 misdemeanor.

343.356. There is hereby created within the division of professional registration the
2 "State Board of Auctioneers" for the purpose of licensing all persons engaged in the
3 practice of auctioneering. The board shall have control and supervision of the licensed
4 occupations and enforcement of the terms and provisions of sections 343.350 to 343.410.

343.359. 1. The board shall be composed of five members, including one voting
2 public member, appointed by the governor with the advice and consent of the senate.

3 2. All members shall be citizens and residents of this state and qualified voters of
4 this state for at least one year preceding their appointments. Auctioneer members shall be
5 licensed pursuant to the laws of this state and shall have been actively engaged in the
6 lawful practice of auctioneering for a period of at least five years, and after January 1,
7 2004, licensed as auctioneers pursuant to sections 343.350 to 343.410. The public member
8 shall be a person who is not and never was a member of any profession licensed or
9 regulated pursuant to sections 343.350 to 343.410 or the spouse of such person, and who
10 does not have and never has had a material financial interest in the providing of the
11 professional services regulated by sections 343.350 to 343.410, or an activity or
12 organization directly related to any profession licensed or regulated pursuant to sections
13 343.350 to 343.410. All members, including the public member, shall be chosen from lists
14 submitted by the director of the division of professional registration. The duties of the
15 public member shall not include the determination of the technical requirements to be met
16 for licensure or whether any person meets such technical requirements, or the technical
17 competence or technical judgment of a licensee or a candidate for licensure.

18 3. At no time shall there be more than three members of the same political party
19 on the board.

20 4. Each member shall be appointed by the governor for a five-year term, except
21 that of the members first appointed, one shall be appointed for a term of one year, one for
22 a term of two years, one for a term of three years, one for a term of four years, and one for
23 a term of five years.

343.362. The governor shall designate one of the members as the first chairperson
2 and thereafter the senior member shall serve as chairperson. Vacancies in the board shall
3 be filled for the unexpired term in the same manner as the original appointments are made.
4 The governor may remove any member for cause.

343.365. 1. The board shall administer and enforce the provisions of sections 343.350 to 343.410, prescribe the duties of its officers and employees, and adopt, publish and enforce such rules and regulations within the scope and purview of sections 343.350 to 343.410 as may be considered by the board to be necessary or proper for the effective administration and interpretation of sections 343.350 to 343.410, and for the conduct of its business and management of its internal affairs. The board shall:

(1) Conduct examinations of applicants for licensure to practice the professions pursuant to sections 343.350 to 343.410 and issue licenses;

(2) Employ and remove board personnel, as defined in subdivision (4) of subsection 15 of section 620.010, RSMo, as may be necessary for the efficient operation of the board, within the limitations of its appropriation;

(3) Determine the sufficiency of the qualifications of applicants;

(4) Hire and retain staff and support personnel, including counsel, as are necessary for conducting board business;

(5) Publish annually a list of names of all auctioneers and apprentice auctioneers licensed pursuant to sections 343.350 to 343.410. The list shall also contain the names of all persons whose license has been suspended or revoked within the preceding year, as well as any other information relevant to the enforcement of the provisions of sections 343.350 to 343.410 that the board may deem of interest to the public;

(6) Administer the state board of auctioneers fund pursuant to section 343.410; and

(7) Administer the subaccount of the state board of auctioneers fund pursuant to chapter 413, RSMo, and chapter 416, RSMo.

2. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

343.368. At all meetings of the board, two members shall be necessary to constitute a quorum for the transaction of business, but no official action may be taken unless a majority of the whole board may vote.

343.371. 1. Applicants for examination or licensure pursuant to sections 343.350 to 343.410 shall possess the following qualifications:

(1) The applicant shall be a person of good moral character, have an education equivalent to the successful completion of the twelfth grade or general educational development certificate, and be at least eighteen years of age, excluding apprentice auctioneers; and

(2) The applicant shall have a valid diploma from an auction school that is approved by the board, or proof of completion of an apprenticeship.

2. The sufficiency of the qualifications of applicants shall be determined by the

10 board, but the board may delegate such authority to its executive director subject to such
11 provisions as the board may adopt.

12 3. For the purpose of meeting the minimum requirements for examination, training
13 completed by a student or apprentice shall be recognized by the board for a period of no
14 more than one year from the date it is received.

343.374. 1. Every person desiring to sit for the examination for any of the
2 occupations provided for in sections 343.350 to 343.410 shall file with the board a written
3 application on a form supplied to the applicant, and submit proof of age and education
4 qualifications along with the required fees. Each application shall contain a statement that
5 it is made under oath or affirmation and that its representations are true and correct to the
6 best knowledge and belief of the person signing the same, subject to the penalties of making
7 a false affidavit or declaration.

8 2. If the board finds that the applicant has submitted the credentials required for
9 admission to the examination and has paid the required fees, the board shall admit such
10 applicant to examination for licensure.

11 3. The examination of applicants for licenses to practice pursuant to sections
12 343.350 to 343.410 shall be conducted by the state board of auctioneers and shall include
13 questions on ethics, reading, writing, spelling, a general knowledge of the statutes of
14 Missouri relating to deeds, mortgages, contracts of sale, agency, lease, auctions, brokerage,
15 elementary arithmetic, mathematics, the provisions of sections 343.350 to 343.410, and
16 other subject matters determined by the board to be appropriate to license classifications,
17 except as otherwise provided in this section.

343.377. 1. Any person who is licensed as an auctioneer by any county in this state
2 on August 28, 2003, may apply for an auctioneer license without taking the examination
3 as set forth in this section. To apply for such license, an applicant shall:

- 4 (1) Submit an application;
5 (2) Tender with such application the appropriate license fee; and
6 (3) Tender with the application the subaccount fee.

7 2. Upon verification of the information contained in the application and upon the
8 individual being found to be otherwise qualified, the board shall issue the applicant a
9 license without examination.

343.380. 1. After January 1, 2005, no person shall practice as or hold himself or
2 herself out as an auctioneer unless such person has obtained a license pursuant to the
3 provisions of sections 343.350 to 343.410, provided that any person who sells real property
4 at auction shall also be licensed pursuant to section 339.010, RSMo. Any person who
5 violates this subsection shall be guilty of a class C misdemeanor and shall be disqualified

6 from exercising the rights or pursuing the business of an auctioneer for a period of one
7 year.

8 2. Beginning with the renewal of a license expiring on or after January 1, 2006, the
9 board may require as a condition precedent to the renewal of any license that all licensees
10 complete six hours of continuing auction education approved by the board.

 343.383. 1. All licenses granted pursuant to sections 343.350 to 343.410 shall be for
2 a term of two years.

3 2. No examination shall be required for the renewal of any license unless such
4 license has been revoked. In such case, the applicant shall take and pass the written
5 examination offered by the board before a new license may be issued.

6 3. Licensees shall have a sixty-day grace period beyond a renewal date to renew a
7 license. If a license is not renewed by the end of the grace period, it is revoked and a new
8 license may only be issued pursuant to the provisions of sections 343.350 to 343.410.

9 4. The penalty for late renewals shall be two times the sum of a normal license
10 renewal fee.

 343.386. 1. Notice in writing shall be given to the board by each licensee of any
2 change of business location within thirty days after any change in location, whereupon the
3 board shall issue a new license for the unexpired period.

4 2. A change of business location shall automatically cancel the license previously
5 issued.

6 3. Changing a business location and the issuance of a new license shall entitle the
7 board to collect a fee of fifteen dollars.

 343.389. 1. If an applicant passes the examination to the satisfaction of the board
2 and has paid the fees required and complied with the requirements of sections 343.350 to
3 343.410, the board shall issue a license.

4 2. The board shall prepare and deliver to each licensee a license and pocket card.
5 The license and pocket card of the apprentice auctioneer shall contain the name and
6 address of their supervising auctioneer.

7 3. All licensees shall carry their pocket cards with them when performing
8 auctioneering tasks, to be shown upon request.

9 4. A duplicate license or replacement for a lost license or pocket card shall be
10 replaced upon request by the licensee and payment of a fee of fifteen dollars.

 343.392. 1. The license requirements of sections 343.350 to 343.410 shall not apply
2 to any of the following types of auctions:

3 (1) Auctions of goods by an individual who personally owns such goods and who
4 did not acquire such goods for the purpose of resale. Such exemption applies only to

5 individuals, and not partnerships, corporations or other business entities;

6 (2) Auctions conducted for any charitable, religious or civic organization which has
7 tax exempt status and for which the auctioneer receives no compensation;

8 (3) Auctions conducted at any livestock market as defined in section 277.020,
9 RSMo;

10 (4) Auctions conducted at any wholesale motor vehicle auction or public motor
11 vehicle auction as defined in section 301.550, RSMo; or

12 (5) An auction conducted by an operator of a self-service storage facility to enforce
13 a lien on personal property stored by an occupant.

14 2. Any properly enrolled student in a regularly scheduled term of an auction school
15 approved by the state board of auctioneers is exempt from having a license while
16 participating in an auction school approved auction.

343.395. The board shall dispense with the examination of an applicant, as
2 provided in sections 343.350 to 343.410, and shall grant a license provided that the
3 applicant has complied with the requirements of another state, territory of the United
4 States, or District of Columbia wherein the requirements for licensure are substantially
5 equal to those in force in this state at the time the application of the license is filed if such
6 state, territory, or the District of Columbia has a reciprocity provision for persons licensed
7 in this state, upon due proof that the applicant at the time of making the application holds
8 a current license in the other state, territory of the United States, or District of Columbia,
9 and upon the payment of a fee equal to the licensing fees required to accompany an
10 application for a renewal of a license. A licensee who is currently under disciplinary action
11 with another auctioneering board shall not be licensed by reciprocity.

343.398. 1. The board may refuse to issue any license pursuant to sections 343.350
2 to 343.410 for one or any combination of causes stated in subsection 2 of this section. The
3 board shall notify the applicant in writing of the reasons for the refusal and shall advise
4 the applicant of the applicant's right to file a complaint with the administrative hearing
5 commission as provided by chapter 621, RSMo.

6 2. The board may cause a complaint to be filed with the administrative hearing
7 commission as provided by chapter 621, RSMo, against any holder of a license or licenses
8 required by sections 343.350 to 343.410 or any person who has failed to renew or has
9 surrendered the person's license or licenses for any one or any combination of the following
10 causes:

11 (1) Use or illegal possession of any controlled substance, as defined in chapter 195,
12 RSMo, or use of an alcoholic beverage to an extent that such use impairs a person's ability
13 to perform the work of any profession licensed or regulated by sections 343.350 to 343.410;

14 (2) A final adjudication and finding of guilt, or an entered plea of guilty or nolo
15 contendere in a criminal prosecution under the laws of any state or of the United States for
16 any offense reasonably related to the qualifications, functions or duties of any profession
17 licensed or regulated pursuant to the provisions of sections 343.350 to 343.410, for any
18 offense an essential element of which is fraud, dishonesty, or an act of violence, or for any
19 offense involving moral turpitude, whether or not sentence is imposed;

20 (3) Use of fraud, deception, misrepresentation, or bribery in securing any license
21 issued pursuant to sections 343.350 to 343.410 or in obtaining permission to take any
22 examination given or required pursuant to sections 343.350 to 343.410;

23 (4) Obtaining or attempting to obtain any fee, charge, or other compensation by
24 fraud, deception, or misrepresentation;

25 (5) Incompetence, misconduct, gross negligence, fraud, misrepresentation, or
26 dishonesty in the performance of the functions or duties of any profession licensed or
27 regulated by sections 343.350 to 343.410;

28 (6) Violation of, or assisting or enabling any person to violate, any provision of
29 sections 343.350 to 343.410, or of any lawful rule or regulation adopted pursuant to
30 sections 343.350 to 343.410;

31 (7) Impersonation of any person holding a license or licenses or allowing any
32 person to use his or her license or licenses;

33 (8) Disciplinary action against the holder of a license or other right to practice any
34 profession regulated by sections 343.350 to 343.410 granted by another state, territory,
35 federal agency, or country upon grounds for which revocation or suspension is authorized
36 in this state;

37 (9) A final adjudication of insanity or incompetence by a court of competent
38 jurisdiction;

39 (10) Assisting or enabling any person to practice or offer to practice any profession
40 licensed or regulated by sections 343.350 to 343.410 who is not licensed and is currently
41 ineligible to practice pursuant to sections 343.350 to 343.410;

42 (11) Issuance of a license based upon a material mistake of fact;

43 (12) Failure to display a valid license if so required by sections 343.350 to 343.410
44 or any rule promulgated pursuant to the provisions of sections 343.350 to 343.410;

45 (13) Violation of any professional trust or confidence;

46 (14) Use of any advertisement or solicitation which is false, misleading, or deceptive
47 to the general public or persons to whom the advertisement or solicitation is primarily
48 directed.

49 3. After the filing of such complaint, the proceedings shall be conducted in

50 accordance with the provisions of chapter 621, RSMo. Upon a finding by the
51 administrative hearing commission that the grounds for disciplinary action are met, the
52 board may, singly or in combination, censure or place the person named in the complaint
53 on probation on such terms and conditions as the board deems appropriate for a period
54 not to exceed two years, or may suspend for a period not to exceed five years or revoke the
55 license, certificate or permit.

56 4. The board, acting upon its own knowledge or written or verified complaint filed
57 by any person, may discipline a person as provided in this section or may bring an action
58 to enjoin any person, firm, or corporation from engaging in an occupation regulated by the
59 provisions of sections 343.350 to 343.410 if such person, firm, or corporation without being
60 licensed to do so by the board engages in or practices an occupation licensed pursuant to
61 the provisions of sections 343.350 to 343.410. The action shall be brought in the county in
62 which such person resides, or in the case of a firm or corporation, where the firm or
63 corporation maintains its principal office; and unless it appears that such person, firm, or
64 corporation so engaging or practicing such occupation is licensed, the injunction shall be
65 issued and such person, firm, or corporation shall be enjoined from engaging in such
66 activities throughout the state.

67 5. Any licensee who has had his or her license revoked shall not be issued another
68 license for a period of one year from the date of revocation.

69 6. Revocation of an auctioneer's license shall automatically suspend every
70 apprentice auctioneer's license granted to any person by virtue of his or her employment
71 by the auctioneer whose license has been revoked. The apprentice auctioneer may retain
72 his or her license by transferring to the employment of another auctioneer within thirty
73 days, notice of which shall immediately be given to the board.

343.401. 1. The board shall set the amount of the fees which sections 343.350 to
2 343.410 authorize and require by rules and regulations promulgated pursuant to section
3 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not
4 substantially exceed the cost and expense of administering sections 343.350 to 343.410. All
5 fees provided for in sections 343.350 to 343.410 shall be payable to the director of the
6 division of professional registration in the department of economic development who shall
7 keep a record of the account showing the total payments received and shall immediately
8 thereafter transmit them to the department of revenue for deposit in the state treasury to
9 the credit of a fund to be known as the "State Board of Auctioneers Fund", which is
10 hereby created. All the salaries and expenses for the operation of the board shall be
11 appropriated and paid from such fund.

12 2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys

13 in this fund shall not be transferred and placed to the credit of general revenue until the
14 amount in the fund at the end of the biennium exceeds two times the amount of the
15 appropriation from the board's funds for the preceding fiscal year.

343.404. In addition to the examination and license renewal fees required by
2 sections 343.350 to 343.410, the board shall collect a fee of fifty dollars each year from each
3 licensee at the time of license application or renewal. These funds shall be deposited by the
4 director of revenue into a subaccount of the state board of auctioneers fund pursuant to
5 section 343.401 and used according to the provisions of section 343.410.

343.410. 1. When a licensee has been found guilty of violating any one or more of
2 the provisions of sections 343.350 to 343.410, and upon the entry of a final decision by the
3 administrative hearing commission pursuant to chapter 621, RSMo, or if appealed, a court
4 order, and upon certification to the board, the aggrieved party or parties shall be paid such
5 amount or amounts in the aggregate not to exceed twenty thousand dollars by the board
6 from the subaccount and the auctioneer's license held by the licensee against whom the
7 claim was made by the aggrieved party shall be suspended until such time as the licensee
8 has reimbursed the subaccount for all amounts paid to the aggrieved party due to the
9 violation of the licensee.

10 2. When, upon the final order of the court, the board provides any sum to the
11 aggrieved party from the subaccount, the board shall be subrogated to all of the rights of
12 the aggrieved party to the extent of payment and the aggrieved party shall, to the extent
13 of the payment, assign his or her right, title, and interest to the board.

14 3. All the claims for monetary damage or relief from the subaccount shall be made
15 in writing on a proof of loss form submitted to the board within six months of the act of the
16 auctioneer giving rise to the loss. Failure to file such claims within the six-month period
17 shall bar the claim. Additional evidence shall be submitted by the claimant if required by
18 the board.

19 4. The board, in its discretion, may use all subaccount funds in excess of two
20 hundred thousand dollars for the following purposes:

21 (1) To carry out the advancement of education and research in the auctioneering
22 profession for the benefit of those licensed pursuant to the provisions of sections 343.350
23 to 343.410 and for the improvement of efficiency of the industry;

24 (2) To underwrite educational seminars, training centers, and other forms of
25 educational projects for the use and benefit generally of licensees;

26 (3) To sponsor, contract for, and underwrite any other educational and research
27 projects of a similar nature having to do with the advancement of the auctioneers
28 profession in this state.

621.045. 1. The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in those cases when, under the law, a license issued by any of the following agencies may be revoked or suspended or when the licensee may be placed on probation or when an agency refuses to permit an applicant to be examined upon his qualifications or refuses to issue or renew a license of an applicant who has passed an examination for licensure or who possesses the qualifications for licensure without examination:

Missouri State Board of Accountancy

Missouri Board of Registration for Architects, Professional Engineers [and], Land Surveyors **and Landscape Architects**

Board of Barber Examiners

Board of Cosmetology

Board of Chiropody and Podiatry

Board of Chiropractic Examiners

Missouri Dental Board

Board of Embalmers and Funeral Directors

Board of Registration for the Healing Arts

Board of Nursing

Missouri Board of Occupational Therapy

Board of Optometry

Board of Pharmacy

Missouri Real Estate Commission

Missouri Veterinary Medical Board

Supervisor of Liquor Control

Department of Health and Senior Services

Department of Insurance

Department of Mental Health

2. If in the future there are created by law any new or additional administrative agencies which have the power to issue, revoke, suspend, or place on probation any license, then those agencies are under the provisions of this law.

3. Notwithstanding any other provision of this section to the contrary, after August 28, 1995, in order to encourage settlement of disputes between any agency described in subsection 1 of this section and its licensees, any such agency shall:

(1) Provide the licensee with a written description of the specific conduct for which discipline is sought and a citation to the law and rules allegedly violated, together with copies of any documents which are the basis thereof, or file a contested case against the licensee, at least thirty days prior to offering the licensee a settlement proposal, and provide the licensee with an

37 opportunity to respond to the allegations;

38 (2) If no contested case has been filed against the licensee, allow the licensee at least
39 sixty days, from the date of mailing, during which to consider the agency's initial settlement offer
40 and discuss the terms of such settlement offer with the agency;

41 (3) If no contested case has been filed against the licensee, advise the licensee that the
42 licensee may, either at the time the settlement agreement is signed by all parties, or within fifteen
43 days thereafter, submit the agreement to the administrative hearing commission for determination
44 that the facts agreed to by the parties to the settlement constitute grounds for denying or
45 disciplining the license of the licensee; and

46 (4) In any contact pursuant to this subsection by the agency or its counsel with a licensee
47 who is not represented by counsel, advise the licensee that the licensee has the right to consult
48 an attorney at the licensee's own expense.

49 4. If the licensee desires review by the administrative hearing commission pursuant to
50 subdivision (3) of subsection 3 of this section at any time prior to the settlement becoming final,
51 the licensee may rescind and withdraw from the settlement and any admissions of fact or law in
52 the agreement shall be deemed withdrawn and not admissible for any purposes under the law
53 against the licensee. Any settlement submitted to the administrative hearing commission shall
54 not be effective and final unless and until findings of fact and conclusions of law are entered by
55 the administrative hearing commission that the facts agreed to by the parties to the settlement
56 constitute grounds for denying or disciplining the license of the licensee.

57 5. As to a matter settled prior to August 28, 1995, by consent agreement or agreed
58 settlement, any party to a consent agreement or agreed settlement, other than a state agency, after
59 having received written notice at their last known address known to the agency from the
60 respective licensing agency of a person's rights under this section, shall have six months to file
61 an action in the circuit court of Cole County contesting the authority of any agency described in
62 subsection 1 of this section to enter into such consent agreement or agreed settlement. Any
63 consent agreement or agreed settlement which is not invalidated by the court pursuant to this
64 subsection shall be given full force and effect by all courts and agencies.

2 [332.341. 1. Any person or other entity who believes that a registered and
3 licensed dentist or a registered and licensed dental hygienist has so acted or failed to
4 act that his certificate of registration or license or both should, under the provisions
5 of this chapter, be suspended or revoked, or who believes that any applicant for a
6 certificate of registration or license to practice dentistry or to practice as a dental
7 hygienist is not entitled thereto under the provisions of this chapter, may file a
8 complaint with the secretary-treasurer of the board.

9 2. If the complaint so filed does not contain statements of fact which if true
10 would authorize, under the provisions of this chapter, suspension or revocation of the
accused's certificate or license, or does not contain statements of fact which if true

would authorize, under the provisions of this chapter, the refusal to issue a certificate or license to an applicant, the board shall either forthwith dismiss the charge or the charges or, within its discretion, cause an investigation to be made of the charges contained in the complaint; after which investigation the board shall either dismiss the charge or charges or proceed against the accused by written complaint as hereinafter provided.

3. If the complaint so filed contains statements of fact which if true would authorize, under the provisions of this chapter, the revocation or suspension of an accused's certificate or license, or both, the board shall cause an investigation to be made of the charge or charges contained in the complaint and unless the investigation discloses the falsity of the facts upon which the charge or charges in the complaint are based, the board shall file with and in the administrative hearing commission a written complaint against the accused setting forth the cause or causes for which his certificate of registration or license or both should be suspended or revoked. Thereafter the board shall be governed by and shall proceed in accordance with the provisions of chapter 621, RSMo.

4. If the charges contained in the complaint filed with the board (after the investigation as aforesaid), if true, would constitute a cause or causes for which, under the provisions of this chapter, an accused's license should not be issued or renewed or a cause or causes for which under the provisions of this chapter a certificate of registration should not be issued, the board shall cause an investigation to be made of the charge or charges and unless the investigation discloses the falsity of the facts upon which the charge or charges contained in the complaint are based, the board shall refuse to permit an applicant to be examined upon his qualifications for licensure or shall refuse to issue a certificate or license or to renew a license, as the case may require.

5. The provisions of this section shall not be so construed as to prevent the board on its own initiative from instituting and conducting investigations and based thereon to make written complaints in and to the hearing commission.

6. If for any reason the provisions of chapter 621, RSMo, become inapplicable to the board, then, and in that event, the board shall proceed to charge, adjudicate and otherwise act in accordance with the provisions of chapter 536, RSMo.]

[339.600. 1. As used in sections 339.600 to 339.610, the following terms mean:

(1) "Commission", the Missouri real estate commission;

(2) "Escrow agent", any person, partnership, association or corporation, foreign or domestic, who performs any of the following functions: closings or settlements or any function related thereto in sales, exchanges or other transfers of real property.

2. A person or entity who meets the definition of escrow agent as provided in subsection 1 of this section is exempt from the provisions of sections 339.600 to 339.610 if such person is:

(1) A person or entity doing business under the laws of this state or the United States as a bank, trust company, savings and loan association, credit union, commercial or consumer finance company, industrial loan company, insurance company or title insurance company or title insurance agency;

(2) An attorney at law;

(3) A person or entity licensed pursuant to this chapter rendering services in the performance of his or her duties as a real estate broker or salesperson;

(4) A mortgage loan company which is subject to licensing, supervision or auditing by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation or the United States Veterans' Administration or the Government National Mortgage Association or the United States Department of Housing and Urban Development or a successor of any of such agencies or entities, as an approved seller or servicer; or

(5) The United States, the state of Missouri or any state, any political subdivision of this state or any agency, division or corporate instrumentality thereof.]

[339.603. 1. It is unlawful for any person, partnership, association or corporation, foreign or domestic, to act as an escrow agent, or to advertise or attempt to act as such without being properly registered with the commission.

2. Upon application by the commission and upon proof by a preponderance of the evidence, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from unlawfully engaging or attempting to engage in the activities identified in sections 339.600 to 339.610.]

[339.605. 1. A person, partnership, association or corporation, incorporated pursuant to the laws of Missouri, may be registered as an escrow agent pursuant to sections 339.600 to 339.610, if such person, partners of the partnership, members of the association or officers of the corporation are at least eighteen years of age, of good moral character and are competent to transact the business of an escrow agent in such manner as to safeguard the interest of the public. The commission shall require proof that such persons meet the qualifications as provided in this subsection.

2. A corporation, partnership or association may be registered if every partner of the partnership, every member of the association, or every officer of the corporation who actively participates in its escrow business has been registered and the corporation, partnership or association has paid all the required fees.

3. Applications for registration shall be submitted in writing on forms furnished by the commission and accompanied by such information and recommendations as the commission may require.

4. The commission may refuse to register any person, partnership, association or corporation if the person, partner, member or a direct or indirect controlling stockholder has been found guilty of, or pleaded guilty to, stealing, forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud or any similar offense.]

[339.606. The commission may promulgate rules and regulations and

2 perform all duties necessary for carrying out the provisions of sections 339.600 to
3 339.610. The commission shall set the amount of the fees which are authorized
4 pursuant to sections 339.600 to 339.610 by rules and regulations promulgated
5 pursuant to section 536.021, RSMo. The fees shall be set at a level to produce
6 revenue which shall not substantially exceed the cost and expense of administering
7 sections 339.600 to 339.610.]

2 [339.607. Each registration granted pursuant to sections 339.600 to 339.610
3 shall be renewed every two years and the commission shall issue a new registration
4 upon receipt of a proper renewal application and the required renewal fee.]

2 [339.608. The fees collected pursuant to the provisions of sections 339.600
3 to 339.610 shall be collected by the Missouri real estate commission and shall be sent
4 to the director of the department of revenue for deposit in the state treasury in the
5 "Escrow Agent Administration Fund" which is hereby created. The commission shall
6 administer the fund and shall use the moneys in the fund solely for the administration
7 and enforcement of sections 339.600 to 339.610. Notwithstanding the provisions of
8 section 33.080, RSMo, to the contrary, any unexpended balance in the fund at the end
9 of the biennium shall not be transferred to the general revenue fund, but shall remain
in the escrow agent administration fund.]

2 [339.610. Any funds received by an escrow agent from any person that are
3 to be used for third-party expenses shall be deposited no later than five banking days
4 after receipt in an escrow account in any federally insured bank, savings and loan
5 association or credit union. The funds in such escrow account shall be expended for
6 the intended use by the escrow agent within ninety days after the obligations of the
third party have been completed.]

2 [339.612. The commission or its designated agent may inspect and audit the
3 escrow accounts or accounting records of any escrow agent at any time during normal
4 business hours to determine if escrow funds are being expended and disbursed in a
5 timely fashion and for the intended use. If the commission determines that such
6 escrow funds have been used for any purpose other than the intended purposes, the
7 escrow agent is liable to the intended payee of the funds for any misappropriated
8 funds and the Missouri real estate commission shall cause legal proceedings to be
9 held in any court of competent jurisdiction to enforce the provisions of this section
10 and sections 339.610, 339.614, and 339.617. The commission's authority to instigate
11 legal proceedings to enforce the provisions of this section is in addition to the
authority to file a complaint with the administrative hearing commission.]

2 [339.614. The records of any inspection or audit made pursuant to the
3 authority in section 339.612 shall be made available to the escrow agent and the
4 parties to the transaction but shall not be considered open to the public unless public
5 money is directly involved or a court of competent jurisdiction orders that such
records be opened.]

2 [339.617. 1. The commission may, upon its own motion or upon a written
3 complaint filed by any person, investigate any business transaction, regulated by the
provisions of sections 339.600 to 339.610, of any person, partnership, association or

4 corporation registered pursuant to the provisions of sections 339.600 to 339.610. The
5 commission may use all investigatory and subpoena powers provided in section
6 339.100 in investigating such business transaction. The commission may file a
7 complaint with the administrative hearing commission and the proceedings shall be
8 conducted as provided in chapter 621, RSMo. If the administrative hearing
9 commission finds that the escrow agent is not in compliance with sections 339.610
10 to 339.617 or is operating in an unsafe or unsound manner, the commission may
11 cancel the registration of such escrow agent. If the registration of any escrow agent
12 is canceled pursuant to this subsection, such escrow agent may not accept any referral
13 of business which is regulated by the provisions of sections 339.600 to 339.610.

14 2. No real estate licensee may knowingly refer escrow or real estate closing
15 business to any escrow agent which does not hold a current registration pursuant to
16 sections 339.600 to 339.610.]

[343.010. 1. No person shall exercise the trade or business of a public
2 auctioneer by selling any goods, property or real estate, without a license.

3 2. "Auctioneer", as used in section 150.380, RSMo, and sections 343.010,
4 343.070 to 343.105 is one who sells goods, merchandise, or property of any kind, at
5 public or private auction, for another person, and who receives any commission or
6 compensation of any kind for conducting such sale; but not including one who
7 conducts such a sale by or under the jurisdiction of any court, or pursuant to any
8 judicial judgment or order, or any foreclosure sale of real estate, and not including
9 any owner of any goods, merchandise or property of any kind, who himself conducts
10 such sale.]

[343.030. The clerks of the respective county commissions shall issue, at
2 each term, as many blank auction licenses for ten days, and for one, three, six and
3 twelve months, respectively, as requested.]

[343.040. The licenses shall be under the seals of the respective county
2 commissions, signed by the clerk, and shall authorize the persons to whom granted
3 to exercise the trade and business of auctioneers, by selling any property, real or
4 personal, by auction within the county for the period of time specified in such
5 license.]

[343.050. The clerk shall deliver the blank licenses so issued to the collector
2 of the counties, respectively, and charge them with the amount thereof, in a book to
3 be kept for that purpose.]

[343.060. The county commission shall, at every term, settle with the
2 collector for all blank licenses delivered to him and not before accounted for, and
3 give him credit for all blank licenses returned, and charge him with all not returned;
4 and, as soon as may be, the clerk shall, under the direction of the county commission,
5 certify to the state auditor the amount with which each collector stands charged, who
6 shall charge such collector therewith.]

[343.070. Each collector shall grant to any person, upon application and upon
2 compliance with the requirements of this chapter, an auction license for ten days, or
3 for one, three, six or twelve months, and for that purpose fill up and countersign one

4 of the blank licenses received from the clerk.]

2 [343.080. 1. There shall be levied upon every license, to be paid to the
county clerk before the delivery thereof, a fee as follows:

3 (1) On each license for one month, ten dollars;

4 (2) On each license for three months, twenty dollars;

5 (3) On each license for six months, thirty dollars;

6 (4) On each license for twelve months, fifty dollars.

7 2. An auctioneer license issued in any county of this state shall be valid in
8 each county of this state during the period for which it is issued.

9 3. All fees imposed by this section shall be paid into the county general
10 revenue fund.]

2 [343.090. In each case of a license delivered, there shall be paid to the county
clerk two dollars as an issuance fee to the clerk. The fee shall be paid into the
3 county's general revenue fund.]

2 [343.100. No person shall be permitted to sell goods or property of any kind
at auction unless he shall have resided in this state six months next preceding the
3 time of making application for license. Except that any nonresident individual may
4 be granted a license to engage in auctioneering in this state upon application and
5 payment of the appropriate fees set out in this chapter.]

2 [343.250. Every person who shall violate any of the provisions of this chapter
is guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not
3 less than twenty nor more than five hundred dollars, and shall be disqualified from
4 exercising the rights or pursuing the business of an auctioneer for a period of one
5 year from the date of his conviction. After January 1, 1979, every person who shall
6 violate any of the provisions of this chapter is guilty of a class C misdemeanor and
7 shall be disqualified from exercising the rights or pursuing the business of an
8 auctioneer for a period of one year from the date of his conviction.]

[436.200. As used in this act the following terms shall mean:

2 (1) "Agent contract", any contract or agreement pursuant to which a student
3 athlete authorizes an athlete agent to represent him in the marketing of his athletic
4 ability or reputation in a sport;

5 (2) "Athlete agent", a person that, for compensation, directly or indirectly
6 recruits or solicits a student athlete to enter into an agent contract, financial services
7 contract or professional sports services contract;

8 (3) "Financial services contract", any contract or agreement pursuant to
9 which a student athlete authorizes an athlete agent to provide financial services for
10 the student athlete, including but not limited to the making and execution of
11 investment and other financial decisions by the athlete agent on behalf of the student
12 athlete;

13 (4) "Person", an individual, company, corporation, association, partnership
14 or other entity;

15 (5) "Professional sports services contract", any contract or agreement
16 pursuant to which a student athlete authorizes an athlete agent to obtain employment

for the student athlete with a professional sports team or as a professional athlete;

(6) "Student athlete", any athlete who practices for or otherwise participates in intercollegiate athletics at any college or university located within this state.]

[436.205. 1. Each athlete agent must register biennially with the secretary of state on forms to be provided by the secretary of state and, at the same time, pay to the secretary of state a registration fee of five hundred dollars for which the secretary of state shall issue a registration certificate entitling the holder to operate as an athlete agent for a period of two years.

2. When the business address of any athlete agent operating in this state is changed, the athlete agent must notify the secretary of state within thirty days after the change of address.

3. It is unlawful for any person to operate as an athlete agent unless he is registered as provided in this section. Failure of the athlete agent to register is a class B misdemeanor.

4. The secretary of state may suspend or revoke the registration of any athlete agent for failing to comply with the provisions of this section. The suspension or revocation of any registration may be reviewed by a court of competent jurisdiction.]

[436.209. 1. A student athlete who is subject to the rules and regulations of the National Collegiate Athletic Association, the National Association for Intercollegiate Athletics, or the National Junior College Athletic Association, and who enters into an agent contract, financial services contract or professional sports services contract with an athlete agent must provide written notification to the athletic director or the president of the college or university in which he is enrolled that he has entered into such a contract. Written notification must be given prior to practicing for or participating in any athletic event on behalf of any college or university or within seventy-two hours after entering into the contract, whichever occurs first. Failure of the student athlete to provide this notification is an infraction.

2. An athlete agent who enters into an agent contract, financial services contract or professional sports services contract with a student athlete who is subject to the rules and regulations of the National Collegiate Athletic Association, the National Association for Intercollegiate Athletics, or the National Junior College Athletic Association must provide written notification to the athletic director or the president of the college or university in which the student athlete is enrolled that the student athlete has entered into such a contract. Written notification of such a contract must be given prior to the student athlete's practicing for or participating in any athletic event on behalf of any college or university or within seventy-two hours after entering into said contract, whichever occurs first. Failure of the athlete agent to provide this notification is a class B misdemeanor.

3. An agent contract, financial services contract or professional sports services contract between a student athlete and an athlete agent must have a notice printed near the space for the student athlete's signature which must contain the following statement in ten-point boldfaced type: "WARNING: IF YOU AS A STUDENT ATHLETE SIGN THIS CONTRACT, YOU MAY LOSE YOUR

27 ELIGIBILITY TO COMPETE IN INTERCOLLEGIATE ATHLETICS.
28 PURSUANT TO MISSOURI LAW, YOU MUST NOTIFY THE ATHLETIC
29 DIRECTOR OR PRESIDENT OF YOUR COLLEGE OR UNIVERSITY IN
30 WRITING PRIOR TO PRACTICING FOR OR PARTICIPATING IN ANY
31 ATHLETIC EVENT ON BEHALF OF ANY COLLEGE OR UNIVERSITY OR
32 WITHIN SEVENTY-TWO HOURS AFTER ENTERING INTO THIS CONTRACT,
33 WHICHEVER OCCURS FIRST. FAILURE TO PROVIDE THIS NOTICE IS A
34 CRIMINAL OFFENSE."

35 4. An agent contract, financial services contract or professional sports
36 services contract entered into between a student athlete and an athlete agent which
37 fails to provide the notification required by this section is null, void and
38 unenforceable.

39 5. Any student athlete or athlete agent who enters into an agent contract,
40 financial services contract or professional sports services contract and fails to provide
41 the notification required by this section, is liable to the college or university in which
42 the student athlete is enrolled for damages that result from the student athlete's
43 subsequent ineligibility. In addition to any damages awarded pursuant to this section,
44 additional damages may be assessed in an amount equal to three times the value of
45 the athletic scholarship furnished by the institution to the student athlete during the
46 student athlete's period of eligibility.

47 6. Within ten days after the date on which the contractual relationship
48 between the athlete agent and the student athlete arises or after notification of such
49 contractual relationship is received by the athletic director or president of the college
50 or university in which the student is enrolled, whichever occurs later, the student
51 athlete shall have the right to rescind the contract or any contractual relationship with
52 the athlete agent by giving notice in writing of his intent to rescind. The student
53 athlete may not under any circumstances effect a waiver of his right to rescind, and
54 any attempt to do so shall be null, void and unenforceable.]

2 [436.212. 1. An athlete agent shall not publish or cause to be published false
3 or misleading information or advertisements, nor give any false information or make
4 false promises to a student athlete concerning employment.

5 2. An athlete agent shall not accept as a client a student athlete referred by
6 an employee of or a coach for a college or university located within this state in
7 exchange for any consideration.

8 3. An athlete agent shall not enter into any agreement, written or oral, by
9 which the athlete agent offers anything of value to any employee of or a coach for a
10 college or university located within this state in return for the referral of any student
11 athlete clients by that employee or coach.

12 4. An athlete agent shall not offer anything of value to induce a student
13 athlete to enter into an agent contract, financial services contract, professional sports
14 services contract or other agreement by which the athlete agent will represent the
15 student athlete. Negotiations regarding the athlete agent's fee shall not be considered
an inducement.

16 5. A person shall not conduct business as an athlete agent if he is not
17 registered or if his registration is suspended or revoked.

18 6. Violation of any provision of this section is a class B misdemeanor.]

 Section B. The repeal and reenactment of sections 339.010, 339.020, 339.030, 339.040,
2 339.060, 339.100, 339.105, 339.120, 339.130, 339.150, 339.160, 339.170, 339.180, 339.710,
3 339.760, 339.780, and 339.800, of section A of this act shall become effective on January 1,
4 2004.